

CRAVATH, SWAINE & MOORE

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RECORDATION NO. _____ Filed 1425
DEC 30 1985 - 12 20 PM

INTERSTATE COMMERCE COMMISSION

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INTERSTATE COMMERCE COMMISSION **DEC 30 1985**

Fee \$ 20.00

ICC Washington, D.C. **DEC 30 1985 - 12 20 PM**

INTERSTATE COMMERCE COMMISSION

DEC 30 1985 - 12 20 PM 2046-166
INTERSTATE COMMERCE COMMISSION

December 30, 1985

Georgia Power Company
Lease Financing Dated as of December 15, 1985
11-1/2% Conditional Sale Indebtedness Due June 29, 2005
and December 29, 2006

Dear Mr. Bayne:

Pursuant to 49 U.S.C. § 11303 and the Commission's rules and regulations thereunder, as amended, I enclose herewith on behalf of Georgia Power Company, for filing and recordation counterparts of the following documents:

New number

1. (a) Conditional Sale Agreement dated as of December 15, 1985, among Chemical Business Credit Corp., as Owner, and Avondale Industries, Inc. (Ornter Freight Car Division), as Builder; and

- A

(b) Agreement and Assignment dated as of December 15, 1985, between Avondale Industries, Inc. (Ornter Freight Car Division), as Builder, and Mercantile-Safe Deposit and Trust Company, as Agent.

- B

2. (a) Lease of Railroad Equipment dated as of December 15, 1985, between Georgia Power Company, as Lessee, and Chemical Business Credit Corp, as Owner; and

- C

(b) Assignment of Lease and Agreement dated as of December 15, 1985, between Chemical Business Credit

Countersignature
G H Hanson

Corp., as Owner, and Mercantile-Safe Deposit and Trust Company, as Agent.

The names and addresses of the parties to the aforementioned agreements are as follows:

1. Agent:

Mercantile-Safe Deposit and Trust Company
Two Hopkins Plaza
Baltimore, Maryland 21203

2. Owner:

Chemical Business Credit Corp.
110 East 59th Street
New York, N.Y. 10022

3. Builder-Vendor:

Avondale Industries, Inc.
Ortner Freight Car Division
5300 Dupont Circle
Milford, Ohio 45150

4. Lessee:

Georgia Power Company
333 Piedmont Avenue
Atlanta, Georgia 30309

Please file and record the documents referred to in this letter and index them under the names of the Agent, the Owner, the Builder-Vendor and the Lessee.

The equipment covered by the aforementioned documents is listed on Exhibit A attached hereto. The equipment bears the legend "Ownership Subject to a Security Agreement Filed with The Interstate Commerce Commission".

There is also enclosed a check for \$20 payable to the Interstate Commerce Commission, representing the fee for recording the Conditional Sale Agreement and related Agreement and Assignment (together constituting one document), and the Lease of Railroad Equipment and related Assignment of Lease and Agreement (together constituting one document).

Please stamp all counterparts of the enclosed documents with your official recording stamp. You will wish

to retain one copy of the instruments for your files. It is requested that the remaining counterparts be delivered to the bearer of this letter.

Very truly yours,

Laurance V. Goodrich
Laurance V. Goodrich
as Agent for
Georgia Power Company

James H. Bayne, Secretary,
Interstate Commerce Commission,
Washington, D.C. 20423.

Encls.

ANNEX B
TO
Conditional Sale Agreement
Units of Railroad Equipment

Type	AAR Mechanical Designation	Builder's Plant	Quantity	Lessee's Identification Numbers (Both Inclusive)	Unit Base Price*	Total Base Price*	Estimated Time and Place of Delivery
106 ton Quick Dump Aluminum Coal hopper cars	HTS	Milford, Ohio	140 1985 units	GALX 86001- 86600	\$44,362.74	\$ 6,210,783.60	12/13/85- 3/15/86 at Builder's Plant
106 ton Quick Dump Aluminum Coal hopper cars	HTS	Milford, Ohio	460 1986 units		\$44,085.19	20,279,187.40 \$26,489,971.00	

* Includes prepaid freight, storage and inspection costs payable to the Builder.

New Number

14873

RECORDED NO. Filed 1425

DEC 30 1985 -12 20 PM

INTERSTATE COMMERCE COMMISSION

[CS&M Ref. 2046-166]

CONDITIONAL SALE AGREEMENT

Dated as of December 15, 1985

Between

AVONDALE INDUSTRIES, INC.
(ORTNER FREIGHT CAR DIVISION),

and

CHEMICAL BUSINESS CREDIT CORP.

11-1/2% Conditional Sale Indebtedness
due June 29, 2005 and December 29, 2006

[Covering 600 Ortner 106 Ton Quick Dump Aluminum
Coal Hopper Cars]

CONDITIONAL SALE AGREEMENT

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* This Table of Contents has been included for convenience only and does not form a part of this document.

CONDITIONAL SALE AGREEMENT dated as of December 15, 1985, between AVONDALE INDUSTRIES, INC. (ORTNER FREIGHT CAR DIVISION), a Delaware corporation ("Builder" or "Vendor", as the context may require, all as more particularly set forth in Section 1.3 hereof), and CHEMICAL BUSINESS CREDIT CORP., a Delaware corporation ("Owner").

The Builder agrees to construct, sell and deliver to the Owner, and the Owner agrees to purchase, subject to the terms and conditions hereof, the railroad equipment described in Annex B hereto ("Equipment").

The Owner is entering into a lease dated as of the date hereof with GEORGIA POWER COMPANY ("Lessee"), substantially in the form annexed hereto as Annex C ("Lease").

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY ("Agent") is acting as agent for several institutional investors (together with their successors and assigns, "Investors") pursuant to the participation agreement dated as of the date hereof ("Participation Agreement") among the Lessee, the Agent, the Owner and the Investors.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

ARTICLE 1. ASSIGNMENT; DEFINITIONS

1.1. Contemplated Sources of Purchase Price; Assignment. The parties hereto contemplate that the Owner will furnish those percentages of the Purchase Price (as defined in Section 4.1 hereof) of the Equipment as are specified in Section 4.3(a) and that an amount equal to the balance of such Purchase Price shall be paid to the Builder by the Agent pursuant to an Agreement and Assignment dated as of the date hereof ("CSA Assignment") between the Builder and the Agent.

1.2. Lease Assignment. As security for the payment and performance of all the Owner's obligations hereunder, the Owner will assign to the Agent certain of the rights, title and interests of the Owner in and to the Lease pursuant to an Assignment of Lease and Agreement

substantially in the form of Annex D hereto ("Lease Assignment"), and the Lessee shall acknowledge and consent thereto pursuant to a Consent and Agreement substantially in the form attached to the Lease Assignment ("Consent").

1.3. Meaning of "Vendor" and "Builder". The term "Vendor", whenever used in this Agreement, means, before any assignment of its rights hereunder, the party hereto which is manufacturing the Equipment and any successor or successors for the time being to its manufacturing properties and business, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor as regards any rights hereunder that are retained or excluded from any assignment; and the term "Builder", whenever used in this Agreement, means, both before and after any such assignment, the party hereto which is selling the Equipment and any successor or successors for the time being to its properties and business.

ARTICLE 2. CONSTRUCTION AND SALE

The Builder shall construct the Equipment at its plant or plants set forth in Annex B hereto and will sell and deliver the Equipment to the Owner. Each unit of Equipment shall be constructed in accordance with the specifications referred to in Annex B and the Purchase Order (as hereinafter defined) and in accordance with such modifications thereof as may be agreed upon in writing among the Builder, the Owner and the Lessee (such specifications and any modifications called "Specifications"). Notwithstanding anything to the contrary contained in this Agreement, if there is any inconsistency between any provision hereof and any provision of the Purchase Order wherein the provision hereof is less favorable or more onerous to the Builder, then the provision of the Purchase Order shall prevail. The Builder represents and warrants that the design, quality and component parts of each unit of Equipment shall conform, on the date of delivery and acceptance thereof hereunder, to all United States Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards, if any, recommended by the Association of American Railroads reasonably interpreted as being applicable to each such unit of Equipment and each such unit will be new railroad equipment when delivered to the Owner and the original use thereof shall commence with the Owner.

ARTICLE 3. INSPECTION AND DELIVERY

3.1. Place of Delivery. The Builder will deliver the Equipment to the Owner at the place or places specified

in Annex B hereto, freight charges and storage charges, if any, prepaid, in accordance with the delivery schedule set forth in Annex B hereto; provided, however, that the Builder shall not have any obligation to deliver any unit of Equipment hereunder subsequent to the commencement of any proceedings specified in clause (c) or (d) of Section 16.1 hereof or subsequent to the occurrence of any event of default as described in Section 16.1 hereof or of any event which with the giving of notice or lapse of time or both would constitute such an event of default. The Builder agrees not to deliver any unit of its Equipment to the Owner hereunder (a) following receipt of written notice from the Owner or the Agent of the commencement of any such proceedings or the occurrence of any such event, as aforesaid, (b) until it receives notice from the Owner, the Agent or their counsel on their behalf, that the respective conditions contained in Section 6.1 and Section 7.1 of the Participation Agreement have been met, (c) following receipt of written notice from the Agent, the Owner or the Lessee or its counsel that any of the representations deemed to be made pursuant to Section 7.2 of the Participation Agreement is no longer true or accurate, (e) following receipt of written notice from the Owner that the condition set forth in clause (vii) of Section 7.1 of the Participation Agreement is no longer deemed fulfilled or (f) following receipt of written notice from the Lessee pursuant to Article XV of the Participation Agreement excluding such unit from this Agreement.

3.2. Force Majeure. The obligations of the Builder as to time of delivery are subject to delays resulting from causes beyond the Builder's reasonable control, including but not limited to acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riots or civil commotion, sabotage, strikes, differences with workmen, accidents, fires, floods, explosions, damage to plant, equipment or facilities, delays in receiving necessary materials, delays of carriers or subcontractors.

3.3. Exclusion of Equipment. Notwithstanding the provisions of Section 3.2 hereof, any unit of Equipment not delivered to the Owner pursuant to Section 3.1 hereof and any unit of Equipment not delivered and accepted by the Owner hereunder on or before June 28, 1986, shall be excluded from this Agreement, and the Owner shall be relieved of its obligations hereunder to purchase and pay for such Equipment. If any unit of Equipment shall be so excluded, the parties hereto shall execute an agreement supplemental hereto limiting this Agreement to the units of

Equipment not so excluded herefrom. In the event of any such exclusion of any unit of Equipment herefrom pursuant to the foregoing provisions or pursuant to Section 4.1 hereof, or in the event the Owner is relieved of its obligations hereunder to accept or pay for any or all units of Equipment in accordance with the terms and conditions hereof for any reason whatsoever, the Lessee will be obligated pursuant to Article I of the Participation Agreement to accept all such units completed and delivered by the Builder and to pay the full purchase price therefor when due, all in accordance with the terms of its prior contractual arrangements with the Builder relating to the Equipment ("Purchase Order"), and the Owner will reassign, transfer and set over to the Builder all the right, title and interest of the Owner in and to the units so excluded and the Purchase Order to the extent relating thereto. The Owner agrees, upon any such exclusion, to take such steps including the execution of instruments of transfer, as may be reasonably requested by the Lessee for the purpose of acknowledging and perfecting the interest of the Lessee in any unit of equipment so excluded from this Agreement.

3.4. Inspection. During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of the Owner (who may be employees and agents of the Lessee), and the Builder shall grant to such authorized inspectors reasonable access to its plant at which the units of Equipment are being constructed. Prior to delivery to the Owner by the Builder, each of its units of Equipment shall be presented to an authorized inspector of the Owner for inspection at the place specified for delivery of such unit, and if such unit conforms to the Specifications, requirements and standards applicable thereto, such authorized inspector shall execute and deliver to the Builder a certificate of inspection and acceptance ("Certificate of Acceptance") substantially in the form of Schedule II hereto stating that such unit has been inspected and accepted on behalf of the Owner and is marked in accordance with Article 10 hereof; provided, however, that the Builder shall not thereby be relieved of its warranties referred to in Articles 2 and 14 hereof. A rejection of any unit must be accompanied by a written statement from the authorized inspector stating in detail the alleged defects or other variations from the Specifications or other requirements. By § 2 of the Lease and by this Section 3.4, the Owner hereby appoints the Lessee its agent to inspect and accept delivery of the Equipment. Acceptance of any unit of Equipment by the Lessee (or its employees or agents,

as aforesaid) pursuant to § 2 of the Lease shall be deemed to be acceptance of such unit hereunder by the Owner.

3.5. The Builder's Responsibilities After Delivery. Upon delivery to and acceptance by the Owner of each such unit of Equipment at the place specified for delivery, the Builder shall have no further responsibility for nor bear any risk of any damage to or the destruction or loss of any such unit; provided, however, that the Builder shall not thereby be relieved of its warranties referred to in Articles 2 and 14 hereof.

ARTICLE 4. PURCHASE PRICE AND PAYMENT

4.1. The base price or prices per unit of the Equipment are set forth in Annex B hereto. Such base price or prices include storage, freight charges to the place of delivery and the cost of the inspection described in Section 3.4 hereof payable to the Builder and are subject to such increase or decrease as is agreed to by the Builder, the Owner and the Lessee. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased and as set forth in the Builder's invoice or invoices delivered to the Owner and, if the Purchase Price is other than the base price or prices set forth in Annex B, the invoice or invoices shall be accompanied by, or have endorsed thereon, the agreement or approval of the Owner (such invoice or invoices being hereinafter called the "Invoices"). If on any Closing Date (as hereinafter defined in this Article) the aggregate Purchase Price of Equipment for which settlement has theretofore been and is then being made under this Agreement would, but for the provisions of this sentence, exceed the Maximum Purchase Price specified in Item 5 of Annex A hereto, the Builder (and any assignee of the Builder) and the Owner will enter into an agreement excluding from this Agreement such unit or units of Equipment then proposed to be settled for in inverse order of their delivery pursuant to Article 3 hereof, as will, after giving effect to such exclusion, reduce such aggregate Purchase Price under this Agreement to not more than the Maximum Purchase Price specified in Item 5 of Annex A hereto (or such higher amount as aforesaid), and the Owner shall take such other steps, including the execution of instruments of transfer, as it may be reasonably requested by the Lessee for the purpose of acknowledging and perfecting the interest of the Lessee in any unit of Equipment so excluded from this Agreement, and the Owner shall have no further obligation or liability in respect of units so excluded.

4.2. Designation of Equipment; Settlement; Closing Dates. All Units accepted hereunder on or prior to December 31, 1985, shall be designated "1985 Equipment", and the balance of the Units accepted hereunder after December 31, 1985, and on or prior to June 28, 1986, shall be designated "1986 Equipment". The 1985 Equipment and the 1986 Equipment shall be settled for in such number of groups ("Groups") of units of Equipment delivered to and accepted by the Owner as is provided in Item 2 of Annex A hereto. The term "Closing Date" with respect to any group of units shall be such date as is specified by the Lessee in accordance with Item 2 of Annex A hereto by five days' written notice thereof with the concurrence of the Owner and the Agent, but in no event shall such Closing Date be later than June 28, 1986. Such notice shall specify the aggregate Purchase Price of the Equipment to be settled for and a copy thereof shall be sent by the Lessee to the Agent and the Owner. The place of each closing shall be at the offices of Cravath, Swaine & Moore in New York City. At least five days prior to any Closing Date, the Builder shall present the Invoice to the Owner for the Equipment to be settled for. The term "business day" as used herein means any calendar day, excluding Saturdays, Sundays and any other day on which banking institutions in Baltimore, Maryland, Atlanta, Georgia, or New York, N. Y., are authorized or obligated to remain closed.

4.3. Indebtedness of Owner to Vendor. Subject to the terms of this Agreement and the satisfaction of the conditions set forth in the Participation Agreement, the Owner hereby acknowledges itself to be indebted to the Vendor in the amount of the aggregate Purchase Price of the Equipment to be settled for and hereby promises to pay the same in immediately available funds to the Vendor at such place as the Vendor may designate, as follows:

(a) on each Closing Date, an amount equal to the aggregate of (i) 36.39165% of the aggregate Purchase Price of the 1985 Equipment for which settlement is being made; and (ii) 31.43304% of the aggregate Purchase Price of the 1986 Equipment for which settlement is being made; and

(b) in 38 semiannual installments in the case of 1985 Equipment and in 41 installments in the case of 1986 Equipment, as hereinafter provided, an amount equal to the aggregate Purchase Price of the Equipment for which settlement is being made less the aggregate amount paid or payable with respect thereto pursuant to

subsection (a) of this Section (said portion of the aggregate Purchase Price payable in installments being called "CSA Indebtedness").

4.4. CSA Indebtedness; Payment Dates; Interest.

(a) The installments of the CSA Indebtedness shall be payable semiannually on June 29 and December 29 in each year (each such date a "Payment Date"), commencing on December 29, 1986, to and including June 29, 2005, in the case of 1985 Equipment and December 29, 2006 in the case of 1986 Equipment. The unpaid balance of the CSA Indebtedness shall bear interest from the Closing Date in respect of which such indebtedness was incurred at the rate of 11-1/2% per annum. Interest on the unpaid balance of the CSA Indebtedness shall be payable to the extent accrued on June 29, 1986, and semiannually on each Payment Date thereafter. The amounts of principal of and interest on the CSA Indebtedness payable on each Payment Date shall be calculated to be substantially in proportion to the amount and allocation of principal and interest on such Payment Date set forth in Schedule I hereto for the 1985 Equipment or the 1986 Equipment, as the case may be, (subject to the provisions of Article 7 hereof) and the aggregate of such installments of principal shall completely amortize the CSA Indebtedness at maturity.

(b) If any of the dates for payment of principal or interest is not a business day, such payment shall be payable on the next business day, and no interest shall be payable for the period from and after the nominal date for payment thereof to such next business date.

4.5. Calculation of Interest. Interest under this Agreement shall be calculated on the basis of a 360-day year of twelve 30-day months, except that the interest payable on June 29, 1986, shall be calculated on an actual days elapsed, 365-day year basis.

4.6. Penalty Interest. The Owner will pay interest, to the extent legally enforceable, at the rate of 12-1/2% per annum ("Penalty Rate") upon all amounts remaining unpaid on the CSA Indebtedness after the same shall have become due and payable pursuant to the terms hereof or such lesser amount as shall be legally enforceable, anything herein to the contrary notwithstanding.

4.7. Currency of Payment and Prepayment. (1) All payments provided for in this Agreement shall be made by bank wire transfer of Federal funds in such coin or currency

of the United States as at the time of payment shall be legal tender for the payment of public and private debts. Except as provided in paragraph (2) of this Section 4.7 or in Article 7 hereof, the Owner shall not have the privilege of prepaying any portion of the CSA Indebtedness prior to June 29, 1996. On June 29, 1996, and on any Payment Date thereafter the CSA Indebtedness may be prepaid in full at the following percentages of the principal amount thereof:

<u>Year of Prepayment</u>	<u>Percentage</u>
1996	105%
1997	104
1998	103
1999	102
2000	101
2001	100
or thereafter	

(2) If a Change of Law (as defined in Section 6(b) of the Indemnity Agreement) occurs which would require the Lessee to pay an indemnity determined under Section 6(b)(A)(y) of the Indemnity Agreement with respect to any of the Units, and if, in connection with such Change of Law, the Lessee elects to exercise the purchase option set forth in § 13.1 of the Lease that relates to a Change of Law, the CSA Indebtedness may be prepaid on any Payment Date after such purchase but not later than June 29, 1988, at par without premium plus interest accrued to the date of payment.

4.8. Liability of Owner Limited to "Income and Proceeds from Equipment". Notwithstanding any other provision of this Agreement (including but not limited to any provision of Articles 16 and 17 hereof, except as set forth in this Section 4.8), but not limiting the effect of Article 22 hereof, the liability of the Owner or any assignee of the Owner for any and all payments to be made by it under this Agreement, (with the exception only of the payments to be made pursuant to Section 4.3(a) hereof, the payments to be made pursuant to Article XIV of the Participation Agreement, the payments to be made pursuant to the proviso to Section 13.3 hereof and the payment of interest accrued on the CSA Indebtedness on June 29, 1986) shall not exceed an amount equal to and shall be payable only out of the "income and proceeds from the Equipment", and such payments shall be made by the Owner only to the extent that the Owner or any assignee of the Owner shall have actually received sufficient "income and proceeds from

the Equipment" to make such payments. Except as provided in the preceding sentence, the Owner shall have no liability to make any payments under this Agreement whatsoever except from the "income and proceeds from the Equipment" to the extent actually received by the Owner or any assignee of the Owner. As used herein the term "income and proceeds from the Equipment" shall mean:

(i) if one of the events of default specified in Section 16.1 hereof shall have occurred and while it shall be continuing, so much of the following amounts as are indefeasibly received by the Owner or any assignee of the Owner at any time after any such event and during the continuance thereof: (a) all amounts of rental and amounts in respect of a Casualty Occurrence or Termination (as defined in § 7 of the Lease) paid for or with respect to the Equipment pursuant to the Lease and any and all other payments received under § 13 or any other provision of the Lease (except any Excluded Payments as defined in the Lease Assignment) and (b) any and all payments or proceeds received for or with respect to the Equipment as the result of the sale, lease or other disposition thereof, after deducting all costs and expenses of such sale, lease or other disposition; and

(ii) at any other time only that portion of the amounts referred to in clauses (a) and (b) as are indefeasibly received by the Owner or any assignee of the Owner and as shall equal the portion of the CSA Indebtedness (including prepayments thereof required in respect of a Casualty Occurrence or Termination) and/or interest thereon due and payable on the date such amounts were required to be paid pursuant to the Lease or as shall equal any other payments then due and payable under this Agreement;

it being understood that "income and proceeds from the Equipment" shall in no event include amounts referred to in the foregoing clauses (a) and (b) which were received by the Owner or any assignee of the Owner prior to the existence of such an event of default which exceeded the amounts required to discharge that portion of the CSA Indebtedness (including prepayments thereof required in respect of a Casualty Occurrence or Termination) and/or interest thereon due and payable on the date on which amounts with respect thereto received by the Owner or any assignee of the Owner were required to be paid to it pursuant to the Lease or which exceeded any other payments due and payable under this Agreement at the time such amounts were payable under the Lease. Nothing contained herein limiting the liability of the Owner shall derogate from the right of the Vendor to

proceed against the Equipment as provided for herein for the full unpaid Purchase Price of the Equipment and interest thereon and all other payments and obligations hereunder. Notwithstanding anything to the contrary contained in Article 16 or 17 hereof, the Vendor agrees that in the event it shall obtain a judgment against the Owner for an amount in excess of the amounts payable by the Owner pursuant to the limitations set forth in this Section, it will, accordingly, limit its execution of such judgment to amounts payable pursuant to the limitations set forth or referred to in this Section.

In addition, the Vendor agrees that the Owner:

(i) makes no representation or warranty as to, and is not responsible for, the due execution, validity, sufficiency or enforceability of the Lease, or any document relative thereto, insofar as the Lease or such other document relates to the Lessee or of any of the Lessor's obligations thereunder, and

(ii) shall not be responsible for the performance or observance by the Lessee of any of its agreements, representations, indemnities, obligations or other undertakings under the Lease; it being understood that as to all such matters the Vendor will look solely to the Vendor's rights under this Agreement against the Equipment and to the Vendor's rights under the Lease and the Lease Assignment against the Lessee and the Equipment.

ARTICLE 5. SECURITY INTEREST IN EQUIPMENT

5.1. Vendor To Retain Security Interest; Accessions Are Part of Equipment. The Vendor hereby retains a security interest in the Equipment until the Owner shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding any provision of this Agreement limiting the liability of the Owner and notwithstanding the delivery of the Equipment to and the possession and use thereof by the Owner and the Lessee as provided in this Agreement and the Lease. Any and all parts installed on and additions and replacements made to any unit of Equipment (i) which are not readily removable without causing material damage to such unit, (ii) the cost of which is included in the Purchase Price of such unit, (iii) in the course of ordinary maintenance of such unit, or (iv) which are required for the operation or use of such unit in railroad interchange by the Applicable Laws (as defined in § 9.2 of the Lease) shall constitute accessions to the Equipment and shall be subject

to all the terms and conditions of this Agreement and included in the term "Equipment" as used herein.

5.2. Obligations upon Payment of CSA Indebtedness. Except as otherwise specifically provided in Article 7 hereof, when and only when the Vendor shall have been paid the full indebtedness in respect of the Purchase Price of the Equipment, together with interest and all other payments as herein provided, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Owner without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Owner at that time, will, at the expense of the Owner, (a) execute an instrument releasing its security interest in the Equipment and transferring such interest to the Owner or upon its order, free of all liens, security interests and other encumbrances created or retained hereby and deliver such instrument to the Owner at its address referred to in Article 21 hereof, (b) execute and deliver at the same place, for filing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Owner to the Equipment and (c) pay to the Owner any money paid to the Vendor pursuant to Article 7 hereof and not theretofore applied as provided therein. The Owner hereby waives and releases any and all rights existing or that may be acquired in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such instrument or instruments or to file such certificate within a reasonable time after written demand by the Owner.

ARTICLE 6. TAXES

6.1. General Tax Indemnification. Whether or not any of the transactions contemplated hereby are consummated, the Owner agrees to pay and to indemnify and hold the Vendor harmless from all Taxes (as defined in § 6 of the Lease) for which indemnification is required under the Lease; excluding, however, (i) Taxes measured solely by net income based upon the Vendor's receipt of payments provided for herein (other than payments due the Vendor under this Article 6 except those for which the Vendor is entitled to a corresponding deduction in the calculation of its net income) and franchise and value added taxes which are in lieu of such net income taxes; and (ii) any Taxes imposed on or measured by any fees or compensation received by the Vendor; provided, however, that the Owner shall not be

required to pay any Taxes during the period it may be contesting the same in the manner provided in Section 6.2 hereof.

6.2. Claims; Contests; Refunds. If claim is made against the Vendor for any Taxes indemnified against under this Article 6, the Vendor shall promptly notify the Owner. If reasonably requested by the Owner in writing, the Vendor shall, upon receipt of any indemnity satisfactory to it for all costs, expenses, losses, legal and accountants' fees and disbursements, penalties, fines, additions to tax and interest, and at the expense of the Owner, contest in good faith the validity, applicability or amount of such Taxes by (a) resisting payment thereof if possible, (b) not paying the same except under protest, if protest is necessary and proper, and (c) if payment is made, using reasonable efforts to obtain a refund thereof in appropriate administrative or judicial proceedings or both. The Owner may also contest, at its own expense, the validity, applicability or amount of such Taxes in the name of the Vendor; provided that no proceeding or action relating to such contest shall be commenced (nor shall any pleading, motion, brief or other paper be submitted or filed in the name of the Vendor in any such proceeding or action) without the prior written consent of the Vendor, which consent shall not be unreasonably withheld. If the Vendor shall obtain a refund of all or any part of such Taxes previously reimbursed by the Owner in connection with any such contest or an amount representing interest thereon, the Vendor shall pay the Owner the amount of such refund or interest net of expenses; provided, however, that no event of default set forth in Section 16.1 hereof and no event which with notice or lapse of time or both would constitute such an event of default shall have occurred and be continuing.

6.3. Reports or Returns. In case any report or return is required to be made with respect to any obligation of the Owner under or arising out of this Article 6, the Owner shall either make such report or return in such manner as will show the interests of the Vendor in the Equipment or shall promptly notify the Vendor of such requirement and shall make such report or return in such manner as shall be satisfactory to the Vendor. All costs and expenses (including legal and accountants' fees) of preparing any such return or report shall be borne by the Owner.

6.4. Survival. All of the obligations of the Owner under this Article 6 shall survive and continue, notwithstanding payment in full of all other amounts due under this Agreement.

ARTICLE 7. MAINTENANCE; TERMINATION AND
CASUALTY OCCURRENCES

7.1. Maintenance. The Owner shall, at its own cost and expense, maintain and keep each unit of the Equipment in good operating order and repair, ordinary wear and tear excepted.

7.2. Termination; Casualty Occurrences. In the event that the Lease is terminated pursuant to § 7.7 or the third paragraph of § 13.1 of the Lease (a "Termination"), or any unit of Equipment shall suffer a Casualty Occurrence (as defined in § 7.1 of the Lease), the Owner shall, promptly after it shall have received notice from the Lessee or has otherwise been informed of a Termination or that such unit has suffered a Casualty Occurrence, cause the Vendor to be fully informed in regard thereto by written notice; provided that, in the case of a Termination, the Owner shall give such written notice to the Vendor no less than 30 days prior to the Settlement Date, as hereinafter defined. On the next succeeding date for the payment of an installment on the CSA Indebtedness (or, in the event such date will occur within 10 days of the delivery of notice, on the following payment date) after such notice from the Lessee has been received or on the Termination Date (as defined in § 7.7 of the Lease) in the case of a Termination (each such date hereinafter called a "Settlement Date"), the Owner shall, subject to the limitations contained in Section 4.8 hereof, pay to the Vendor (i) in the case of a Casualty Occurrence, a sum equal to the Casualty Value (as defined in Section 7.3 hereof) of such unit suffering a Casualty Occurrence as of such Settlement Date, together with an amount equal to accrued interest thereon, unless the Lessee complies with the provisions of the second paragraph of § 7.1 of the Lease, in which case no payment under this clause (i) shall be required, and (ii) in the case of a Termination a sum equal to the Termination Value (as defined in Section 7.4 hereof) of all units subject to the Lease as of such Settlement Date, together with an amount equal to accrued interest thereon (as hereinafter provided). The Owner shall file, or cause to be filed, with the Vendor a certificate setting forth the Casualty Value of such unit or the Termination Value of all units subject to the Lease, as the case may be. Any money paid to the Vendor pursuant to this paragraph shall be applied (after the payment of principal and interest due on such date in respect of CSA Indebtedness not being prepaid) to prepay, without penalty or premium except in the case of a Termination under the third paragraph of §13.1 of the Lease, ratably in accordance with the unpaid balance of each installment, the CSA Indebtedness, together with all interest accrued on the portion of the CSA Indebtedness being prepaid.

7.3. Casualty Value. The Casualty Value of each unit of the Equipment suffering a Casualty Occurrence shall be deemed to be that portion of the original Purchase Price thereof remaining unpaid on the date as of which such Casualty Value shall be determined (without giving effect to any prepayment or prepayments theretofore made under this Article with respect to any other unit). For the purpose of this Section 7.3 and Section 7.4 hereof, each payment of the Purchase Price made pursuant to Article 4 hereof with respect to the 1985 Equipment or the 1986 Equipment shall be deemed to be a payment with respect to each unit of 1985 Equipment or 1986 Equipment, as the case may be, in like proportion as the original Purchase Price of such unit bears to the aggregate original Purchase Price of all the 1985 Equipment or the 1986 Equipment, as the case may be.

7.4. Termination Value. The Termination Value of any unit of Equipment subject to the Lease shall be equal to the Casualty Value thereof and accrued interest thereon.

7.5. Obligations upon Payment of Casualty or Termination Value. Upon payment by the Owner to the Vendor of the Casualty Value or Termination Value of any unit of the Equipment having suffered a Casualty Occurrence or having been subject to Termination, as the case may be, absolute right to the possession of, title to and property in such unit shall pass to and vest in the Owner, without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Owner, will execute and deliver to the Owner, at the expense of the Owner, an appropriate instrument confirming such passage to the Owner of all the Vendor's right, title and interest, and the release of the Vendor's security interest, in such unit, in recordable form, in order that the Owner may make clear upon the public records the title of the Owner to such unit.

ARTICLE 8. INSURANCE AND CONDEMNATION PAYMENTS

If the Vendor shall receive any insurance proceeds or condemnation payments in respect of any unit suffering a Casualty Occurrence, the Vendor shall forthwith pay such insurance proceeds or condemnation payments to the Owner after receipt by the Vendor of the Casualty Value of such unit, together with accrued interest thereon, unless an event of default shall have occurred and be continuing hereunder. All insurance proceeds received by the Vendor in respect of any unit of Equipment not suffering a Casualty Occurrence shall be forthwith paid to the Owner upon proof reasonably satisfactory to the Vendor that any damage to

such unit in respect of which such proceeds were paid has been fully repaired, provided that an event of default shall not have occurred and be continuing.

ARTICLE 9. REPORTS AND INSPECTIONS

On or before April 30 in each year, commencing with April 30, 1987, the Owner shall cause to be furnished to the Vendor an accurate statement to the effect set forth in § 8 of the Lease. The Vendor shall have the right, by its agents, to inspect the Equipment and the Owner's and the Lessee's records with respect thereto at such reasonable times as the Vendor may request during the term of this Agreement.

ARTICLE 10. MARKING OF EQUIPMENT

The Owner will cause each unit of Equipment to be kept numbered and marked as provided in § 5 of the Lease. The Owner will not permit the identifying number of any unit of the Equipment to be changed except in accordance with a statement of new number or numbers to be substituted therefor which previously shall have been filed with the Vendor and filed by or on behalf of the Owner in all public offices where this Agreement shall have been filed. Except as aforesaid, the Owner will not allow the name of any person, association or corporation to be placed on any unit of Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Equipment may be lettered with the names or initials or other insignia customarily used by the Lessee, its subsidiaries and affiliated companies; and provided further that Lessee may make any change in the lettering of the names, trademarks, initials or other insignia at any time and as often as it deems it appropriate to do so.

ARTICLE 11. COMPLIANCE WITH LAWS

During the term of this Agreement, the Owner will comply, and will cause every lessee or user of the Equipment to comply, in all respects (including without limitation the use, maintenance and operation of the Equipment) with all Applicable Laws and in the event the Applicable Laws require any alteration, replacement or addition of or to any part on any unit of Equipment, the Owner will or will cause any lessee to conform therewith at no expense to the Vendor; provided, however, that the Owner or any lessee may, in good faith, contest the validity or application of any Applicable Law in any reasonable manner which does not, in the opinion of the Vendor, materially and adversely affect the property or rights of the Vendor under this Agreement.

ARTICLE 12. POSSESSION AND USE

12.1. Possession and Use of Equipment by Owner.

So long as an event of default shall not have occurred and be continuing under this Agreement, the Owner shall be entitled to the possession of the Equipment and the use thereof (as provided in the Lease) from and after delivery of the Equipment by the Builder to the Owner, but only upon and subject to all the terms and conditions of this Agreement.

12.2. Lease Permitted; Lease Subordinate; No Amendment or Termination. The Owner simultaneously is leasing the Equipment to the Lessee as provided in the Lease, and the rights of the Lessee and its permitted assigns under the Lease shall be subordinated and junior in rank to the rights and shall be subject to the remedies of the Vendor under this Agreement. The Lease shall not be amended in any respect or terminated (except in accordance with its terms and except as permitted in the Lease Assignment) without the prior written consent of the Vendor prior to the payment in full of the CSA Indebtedness, together with all other sums due to the Vendor hereunder.

ARTICLE 13. PROHIBITION AGAINST LIENS

13.1. Owner To Discharge Liens. The Owner will pay or discharge any and all sums claimed by any party from, through or under the Owner or its successors or assigns which, if unpaid, might become a lien, charge or security interest on or with respect to the Equipment or any unit thereof or the Lease or the income and proceeds from the Equipment or the Lease and will promptly discharge any such lien, charge or security interest which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor, materially and adversely affect the security interest of the Vendor in or to the Equipment, its interest in the income and proceeds from the Equipment or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment or the income and proceeds from the Equipment shall be secured by and under this Agreement.

13.2. No Breach for Certain Liens. The covenant set forth in Section 13.1 will not be deemed breached by

reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case not delinquent, liens or claims arising hereunder or under the Participation Agreement and the documents contemplated thereby or from the Vendor's acts or out of judgments under appeal and with execution thereon stayed.

13.3. Article 13 Subject to Article 22 Except in Certain Instances. The obligations of the Owner under this Article 13 are subject to the limitations contained in Article 22 hereof; provided, however, that the Owner will pay or discharge any and all liens, charges or security interests claimed by any party from, through or under the Owner not arising out of the ownership of the Equipment or the transactions contemplated by the Participation Agreement, this Agreement and the Lease (but including tax liens arising out of the receipt by the Owner of rentals and other payments under the Lease, the Participation Agreement and any other proceeds of the Equipment unless the Lessee has agreed under the Lease to pay or discharge the same) on or with respect to the Equipment, or any unit thereof, or the Owner's interest in the Lease and the payments to be made thereunder, but the Owner shall not be required to pay or discharge any such lien, charge or security interest so long as the validity thereof shall be contested in good faith and by appropriate legal or administrative proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the security interest of the Vendor in or to the Lease and the payments to be made thereunder.

ARTICLE 14. INDEMNITIES AND WARRANTIES

14.1. Indemnification. The Owner shall pay and shall protect, indemnify and hold harmless the Vendor, its successors, assigns, agents and servants ("Indemnified Persons"), from and against any and all Indemnified Matters (as defined in § 9.5 of the Lease), except that the Owner shall not be liable to the Builder in respect of any Indemnified Matter to the extent liability in respect thereof arises from a breach by the Builder of its obligations under this Agreement or under the Builder's warranties or patent indemnities referred to in Articles 2 and 14 hereof. The Owner shall be obligated under this Article 14, whether or not any Indemnified Person shall also

be indemnified with respect to the same matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against the Owner under this Article 14 without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any Indemnified Matter, the Owner may and, upon such Indemnified Person's request, will at the Owner's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Owner and approved by such Indemnified Person and, in the event of any failure by the Owner to do so, the Owner shall pay all costs and expenses (including without limitation attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Owner is required to make any payment under this Article 14, the Owner shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the sole discretion of the Indemnified Person), shall be equal to the amount of such payment. The Vendor and the Owner agree to give each other written notice of any claim or liability hereby indemnified against promptly upon obtaining knowledge thereof. Upon the payment in full by the Owner of any indemnity as contained in this Article 14, and provided that no event of default described in Section 16.1 hereof or other event which with notice or lapse of time or both would constitute such an event of default shall have occurred and be continuing, the Owner shall be subrogated to any right of such Indemnified Person (except against another Indemnified Person) in respect of such Indemnified Matter.

14.2. Survival; No Subrogation. The indemnities contained in this Article 14 shall survive the expiration or termination of this Agreement with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of and shall be enforceable by any Indemnified Person. None of the indemnities in this Article 14 shall be deemed to create any rights of subrogation in any insurer or third party against the Owner therefor, from or under any Indemnified Person, whether

because of any claim paid or defense provided for the benefit thereof or otherwise.

14.3. Owner Not Released if Equipment Damaged or Lost. The Owner will bear the responsibility for and risk of any damage to or destruction or loss of each unit of Equipment and shall not be released from its obligations hereunder in any such event.

14.4. Warranties and Patent Indemnities. The agreement of the parties relating to the Seller's warranties of material and workmanship and to patent indemnification is set forth in Items 3 and 4 of Annex A hereto and Article 2 hereof. Such warranties and covenants of patent indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement, or the satisfaction, discharge or termination of this Agreement in any manner whatsoever.

14.5. Warranties of the Builder. The Builder represents and warrants to the Owner and its successors and assigns that at the time of delivery and acceptance of each unit of Equipment under this Agreement the Owner will have good and marketable title to such unit, free and clear of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Vendor under this Agreement and the rights of the Lessee under the Lease.

The Builder represents and warrants to the Owner and its successors and assigns that it is not entering into this Agreement or into any other transaction contemplated by the Participation Agreement directly or indirectly in connection with any arrangement or understanding by it in any way involving any employee benefit plan (other than a governmental plan) with respect to which it or, insofar as is known to it, any party to the Participation Agreement is a party in interest, all within the meaning of the Employee Retirement Income Security Act of 1974.

The Builder hereby represents and warrants to the Owner and its successors and assigns that this Agreement has been duly authorized by the Builder and lawfully executed and delivered by it for a valid consideration and that, assuming due authorization, execution and delivery by the Owner, this Agreement is, insofar as the Builder is concerned, a legal, valid and binding instrument, enforceable against the Builder in accordance with its terms.

ARTICLE 15. ASSIGNMENTS

15.1. Assignment by Owner. The Owner will not (a) except as provided in Article 12 hereof, transfer the right to possession of any unit of the Equipment or (b) sell, assign, transfer or otherwise dispose of its rights under this Agreement or the Lease except that all, but not less than all, of the Owner's right, title and interest in and to this Agreement and the Lease may be assigned, conveyed or transferred to (a) any bank, savings institution or trust company having a combined capital and surplus of at least \$100,000,000, (b) any corporation having a net worth of at least \$50,000,000, (c) any transferee listed in clause (a) or (b) which itself does not meet the financial test of clause (a) or (b) but which has an affiliate which does meet such financial test at the time of such transfer and which affiliate shall have executed and delivered a written guarantee pursuant to which such affiliate shall have absolutely and unconditionally guaranteed the performance of all obligations of the transferee under this Agreement, the Lease, the Lease Assignment and the Participation Agreement, or (d) any corporation owning at the time substantially all of the capital stock of the Owner or any corporation or other entity controlled by either thereof. If the transfer occurs pursuant to clause (d) above, the Owner shall remain secondarily liable for the obligations of the transferee under this Agreement, the Lease, the Lease Assignment and the Participation Agreement, if the transferee shall not have a net worth of at least \$50,000,000 at the time of the transfer. In the event of any such assignment, conveyance or transfer the transferee shall agree to be bound by and assume all the terms of and will undertake all of the obligations of its predecessor Owner contained in this Agreement, the Lease, the Lease Assignment and the Participation Agreement in such manner as is satisfactory to the Vendor. No such assignment, conveyance or transfer shall violate any provision of law or regulation or create a relationship which would be in violation thereof. Upon any such disposition by the Owner to the transferee as above provided, such transferee shall be deemed an "Owner" for all purposes of this Agreement, the Lease, the Lease Assignment and the Participation Agreement, and shall be deemed to have made all the payments previously made by the Owner making such assignment, conveyance or transfer; and each reference herein to the Owner shall thereafter be deemed a reference to such transferee.

15.2. Assignment by Vendor. All or any of the rights, remedies, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Owner, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to or relieve the Builder from any of the obligations of the Builder to deliver the Equipment to the Owner in accordance herewith or to respond to its warranties and indemnities referred to in Articles 2 and 14 hereof, or relieve the Owner of its obligations to the Builder contained in Articles 2, 3, 4, 6 and 14 hereof, Annex A hereto and this Article 15 or any other obligation which, according to its terms or context, is intended to survive an assignment.

15.3. Notice of Assignment by Vendor. Upon any such assignment pursuant to Section 15.2 hereof, the assignor shall give written notice to the Owner and the Lessee, together with a copy of such assignment, and such assignee shall, by virtue of such assignment, acquire all the assignor's right, title and interest in and to the Equipment and this Agreement, or in and to a portion thereof, as the case may be, subject only to such reservations as may be contained in such assignment. From and after the receipt by the Owner of the notification of any such assignment, all payments thereafter to be made by the Owner under this Agreement shall, to the extent so assigned, be made to the assignee in such manner as it may direct. The Owner shall have no obligation to any assignee prior to actual receipt by the Owner of written notice of any such assignment.

15.4. No Setoff Against CSA Indebtedness. The Owner recognizes that this Agreement will be assigned to the Agent as provided in the CSA Assignment. The Owner expressly represents, for the purpose of assurance to any person, firm or corporation considering the acquisition of this Agreement or of all or any of the rights of the Vendor hereunder, and for the purpose of inducing such acquisition, that the rights of the Agent to the entire unpaid CSA Indebtedness in respect of the Purchase Price of the Equipment or such part thereof as may be assigned together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever by the Owner arising out of any breach of any obligation of the Builder with respect to the Equipment or the manufacture, construction, delivery or warranty thereof or with respect

to any indemnity herein contained or arising by reason of any other indebtedness or liability at any time owing to the Owner or the Lessee by the Builder. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Owner against and only against the Builder.

ARTICLE 16. DEFAULTS

16.1. Events of Default; Termination of Lease; Declaration of Default; Acceleration of CSA Indebtedness. In the event that any one or more of the following events of default shall occur and be continuing:.

(a) the Owner shall fail to pay or cause to be paid in full any sum payable by the Owner when payment thereof shall be due hereunder (irrespective of the provisions of Article 4 or 22 hereof or any other provision of this Agreement limiting the liability of the Owner) and such default shall continue for 10 days after the date such payment is due; or

(b) default shall be made in the observance or performance of any other of the conditions and agreements on the part of the Owner (irrespective of the provisions of Article 4 or 22 hereof or any other provision of this Agreement limiting the liability of the Owner) or the Lessee contained herein or in the Participation Agreement, the CSA Assignment, the Lease Assignment or the Consent and such default shall continue for 30 days after written notice from the Vendor to the Owner and the Lessee specifying the default and demanding that the same be remedied; or

(c) a petition for reorganization under Title 11 of the United States Code, as now constituted or as hereafter amended, shall be filed by or against the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under the Lease and the Consent shall not have been and shall not continue to be duly assumed in writing within 60 days after such petition shall have been filed, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations

shall have the same status as expenses of administration and obligations incurred by such trustee or trustees; or

(d) any other proceeding shall be commenced by or against the Owner or the Lessee for any relief which includes or might result in any modification of the obligations of the Owner hereunder or under the Lease or the Lease Assignment or the Lessee under the Lease or under the Consent under any bankruptcy or insolvency laws or laws relating to the relief of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of such obligations), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all such obligations shall not have been and shall not continue to be duly assumed in writing within 60 days after such proceedings shall have been commenced, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Owner or the Lessee, as the case may be, or for their respective property in connection with any such proceedings in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such trustee or trustees or receiver or receivers; or

(e) any Event of Default (as defined in the Lease) shall have occurred and be continuing under the Lease unless the Owner shall have cured such Event of Default and the corresponding event of default hereunder within the later to occur of (1) the expiration of all applicable grace periods, or (2) the tenth business day following the giving of written notice to the Owner that such Event of Default has occurred and is continuing; provided, however, that if more than four Events of Default or if more than two consecutive Events of Default shall have occurred under clause (A) of § 13.1 of the Lease which corresponds to an event of default under Section 16.1(a) hereof, any such Event of Default shall be an event of default hereunder whether or not the corresponding event of default hereunder is cured;

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Owner and

the Lessee, and upon compliance with any legal requirements then in force and applicable to such action by the Vendor declare ("Declaration of Default") the entire unpaid CSA Indebtedness, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such Declaration of Default at the Penalty Rate to the extent legally enforceable. In addition, if the Owner does not pay the entire unpaid CSA Indebtedness, together with the interest thereon accrued and unpaid to the date of payment within 15 days of such notice of Declaration of Default, the Vendor may cause the term of the Lease immediately upon such notice to terminate; provided, however, that such termination shall not be in derogation of or impair the rights of the Owner or the Agent (under the assignment thereof), as the case may be, to enforce compliance by the Lessee with any of its covenants and agreements under the Lease or to enforce any of its rights and remedies under § 10 of the Lease (subject to the Agent's rights to repossess and sell the Equipment as provided in this Agreement), including the rights of the Owner or the Agent (under the assignment thereof), as the case may, to sue for and recover damages provided for in § 10 of the Lease upon the occurrence of an Event of Default under the Lease. Upon a Declaration of Default, subject to Article 4 hereof, the Vendor shall be entitled to recover judgment for the entire unpaid balance of the CSA Indebtedness so payable, with interest as aforesaid, and to collect such judgment out of any property of the Owner wherever situated, subject to the provisions of Articles 4 and 22 hereof. The Owner shall promptly notify the Vendor and the Lessee of any event of which it has knowledge which constituted, constitutes, or with the giving of notice or lapse of time or both would constitute an event of default under this Agreement.

16.2. Waiver of Defaults. The Vendor may, at its election, waive any such event of default and its consequences and rescind and annul any Declaration of Default or notice of termination of the Lease by notice to the Owner and the Lessee in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such event of default had occurred and no Declaration of Default or notice of termination of the Lease had been made or given. Notwithstanding the provisions of this Section, time is of the essence of this Agreement and no such waiver, rescission or annulment shall extend to or

affect any other or subsequent default or impair any rights or remedies consequent thereon.

ARTICLE 17. REMEDIES

17.1. Vendor May Take Possession of Equipment. At any time during the continuance of a Declaration of Default and upon such further notice, if any, as may be required for compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, the Vendor may take or cause to be taken by its agent or agents immediate possession of the Equipment or one or more of the units thereof without liability to return to the Owner any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 17 expressly provided, and may remove the same from possession and use of the Owner, the Lessee or any other person and for such purpose may enter upon the premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Owner or the Lessee, subject to all mandatory requirements of due process of law.

17.2. Assembling of Equipment for Vendor. In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall designate a reasonable point or points from among those provided in § 11.1(a) of the Lease for the delivery of the Equipment, the Owner shall at its own expense and risk:

(a) forthwith and in the usual manner (including without limitation giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any unit or units have been interchanged or which may have possession thereof to return the unit or units) place such units upon such storage tracks as the Vendor reasonably may designate;

(b) cause such units to be stored on such tracks without charge for insurance, rent or storage until all such units of Equipment have been sold, leased or otherwise disposed of by the Vendor; and

(c) cause the same to be transported to any reasonable place as directed by the Vendor.

During any storage period, the Owner will, at its own cost and expense, insure, maintain and keep each such unit in good order and repair and permit the inspection of the Equipment by the Vendor, the Vendor's representatives and prospective purchasers and users. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence of the agreement between the parties, and the Owner acknowledges that upon application to any court of equity having competent jurisdiction the Vendor shall be entitled to a decree requiring specific performance hereof. The Owner hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of Equipment in any commercially reasonable manner.

17.3. Vendor May Dispose of or Retain Equipment.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as provided in Section 17.1 hereof) may, at its election, retain the Equipment in satisfaction of the entire CSA Indebtedness and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Owner and the Lessee by telegram or registered mail, addressed as provided in Article 21 hereof, and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all the Owner's rights in the Equipment shall thereupon terminate and all payments made by the Owner may be retained by the Vendor as compensation for the use of the Equipment; provided, however, that if the Owner, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the CSA Indebtedness, together with interest thereon accrued and unpaid, including penalty interest, and all other payments due under this Agreement, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Owner; provided further that if the Owner, the Lessee or any other persons notified under the terms of this Section object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by

law. If the Vendor shall not have given notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 17.

17.4. Vendor May Sell Equipment; Owner's Right of Redemption. At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession thereof, at its election and upon reasonable notice to the Owner, the Lessee and any other persons to whom the law may require notice of the time and place, may sell the Equipment or one or more of the units thereof free from any and all claims of the Owner, the Lessee or any other party claiming from, through or under the Owner or the Lessee, at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; provided, however, that if, prior to such sale and prior to the making of a contract for such sale, the Owner should tender full payment of the total unpaid balance of the CSA Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for and otherwise arranging for the sale and the Vendor's reasonable attorneys' fees, then upon receipt of such payment, expenses and fees by the Vendor, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Owner. The proceeds of such sale or other disposition, less the reasonable attorneys' fees and any other expenses incurred by the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling or otherwise disposing of the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

17.5. Sale of Equipment by Vendor. Any sale hereunder may be held or conducted at such place or places and at such time or times as the Vendor may specify, in one lot or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine, so long as such sale shall be in a commercially reasonable manner. The Vendor, the Owner or the Lessee may bid for and become the purchaser of the Equipment or any unit thereof so offered for sale. The Owner and the Lessee shall be given written notice of such sale not less than 10 days prior thereto, by telegram or registered mail addressed as provided in Article 21 hereof. In addition, if such sale

shall be a private sale (which shall be deemed to mean only a sale where an advertisement for bids has not been published in a newspaper of general circulation or a sale where less than 40 offerees have been solicited in writing to submit bids), it shall be subject to the rights of the Lessee and the Owner to purchase or provide a purchaser, within 10 days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. In the event that the Vendor shall be the purchaser of the Equipment, it shall not be accountable to the Owner or the Lessee (except to the extent of surplus money received as provided in Section 17.7 hereof) and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all or any part of sums due to the Vendor hereunder.

17.6. Effect of Remedies and Powers and Exercise Thereof. Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity not inconsistent herewith, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence duly granted to the Owner shall not otherwise alter or affect the Vendor's rights or the Owner's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Owner's obligations or the Vendor's rights hereunder with respect to any subsequent payments or default therein.

17.7. Deficiency or Surplus. If there shall remain any amount due to the Vendor under the provisions of this Agreement after applying all sums of money realized by the Vendor under the remedies herein provided, the Owner shall, subject to the limitations of Section 4.8 hereof and of Article 22 hereof, pay the amount of such deficiency to the Vendor upon demand, together with interest thereon from the date of such demand to the date of payment at the Penalty Rate and, if the Owner shall fail to pay such

deficiency, the Vendor may bring suit therefor and shall be entitled to recover a judgment therefor against the Owner. If there shall remain a surplus in the possession of the Vendor after applying as aforesaid all sums realized by the Vendor, such surplus shall be paid forthwith to the Owner.

17.8. Expenses. Subject to the limitations of Section 4.8 and Article 22 hereof, the Owner will pay all reasonable fees, costs and expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable expenses, including reasonable attorneys' fees, and the amount thereof shall be included in such judgment.

17.9. Remedies Subject to Mandatory Legal Requirements. The foregoing provisions of this Article 17 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

ARTICLE 18. APPLICABLE STATE LAWS

18.1. Conflict with State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction (which is not overridden by applicable Federal law) shall be ineffective as to such jurisdiction without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Owner to the full extent permitted by law, it being the intention of the parties hereto that this Agreement shall be deemed to be a conditional sale and enforced as such.

18.2. Waiver of Notices. Except as otherwise provided in this Agreement, the Owner, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, including notice of intention to take possession of or to sell or lease the Equipment or any one or more units thereof, and any other requirements as to the time, place and terms of the sale or lease thereof, any other requirements with respect to the enforcement of the Vendor's rights and any and all rights of redemption.

ARTICLE 19. FILING

The Owner will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 and in all other places required by § 15 of the Lease; and the Owner will from time to time perform any other act and will execute, acknowledge, deliver and file any and all further instruments required by law or reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its interest in the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Owner will promptly furnish to the Vendor certificates or other evidence of such filing satisfactory to the Vendor.

ARTICLE 20. HEADINGS; MODIFICATION OF AGREEMENT

All article and section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

Except for the Participation Agreement and the Exhibits thereto, this Agreement, including the Annexes hereto, exclusively and completely states the rights of the Vendor and the Owner with respect to the Equipment and supersedes all other agreements, oral or written, with respect to the Equipment. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized representatives of the Vendor and the Owner. Any reference herein to this Agreement or any other agreement shall mean such agreement and all amendments and supplements hereto or thereto then in effect.

ARTICLE 21. NOTICES

21.1 Notice. Any notice required or permitted hereunder shall be deemed to have been received by the addressee on the date of actual receipt (if such date is a business day, otherwise on the next business day), if transmitted by mail, telex, telecopy or similar transmission, or by hand, addressed as follows:

(a) to the Builder, at 5300 DuPont Circle,
Milford, Ohio 45150, Attention of Worth Roberts;

(b) to the Owner, at c/o Chemical Bank, 110 East 59th Street, New York, NY 10022, Attention of Manager, Specialized Leasing Group;

(c) to the Lessee, at 333 Piedmont Avenue, Atlanta, Georgia 30303, Attention of Treasurer, with a copy to Southern Company Services, Inc., 64 Perimeter Center East, Atlanta, Georgia 30346, Attention of Financial Vice President;

(d) to the Agent, at Two Hopkins Plaza, P. O. Box 2258, Baltimore, Maryland 21203, Attention of Corporate Trust Department;

(e) to any assignee of the Vendor or of the Owner, at such address as may have been furnished in writing to the Owner, or the Vendor, as the case may be, by such assignee;

or at such other address as may have been furnished in writing by such party to the other parties to this Agreement.

ARTICLE 22. IMMUNITIES; SATISFACTION OF UNDERTAKINGS

22.1 No recourse Against Certain Persons. No recourse shall be had in respect of any contractual obligation due under this Agreement or referred to herein against any incorporator, stockholder, director or officer, as such, past, present or future, of the parties hereto, whether by virtue of any constitutional provision, statute or rule of law or by enforcement of any assessment or penalty or otherwise; all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of such incorporators, stockholders, directors or officers, as such, being forever released as a condition of and as consideration for the execution of this Agreement.

22.2 Satisfaction of Undertakings. The obligations of the Owner under Sections 7.1, 17.2, 17.7 and 17.8 and under Articles 6, 9, 10, 11, 13 (except as set forth in Section 13.3 thereof), 14 and 19 hereof and any and all obligations at any time arising thereunder shall be deemed satisfied in full in all respects by the Lessee's execution and delivery of the Lease. The Owner shall not have any responsibility for the Lessee's failure to perform such obligations; but if the same shall not be performed, they shall constitute the basis for an event of default hereunder in accordance with Section 16.1(e) hereof. No waiver or amendment of the Lessee's undertakings under the Lease shall be effective unless joined in by the Vendor;

provided, however, that the Vendor shall consent to any agreement in writing between the Lessee and the Owner increasing the rentals or casualty values payable pursuant to § 3 or § 7 of the Lease, such consent to be given by the Vendor within 30 days of delivery of a copy of such agreement to the Vendor.

ARTICLE 23. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of New York; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303, such additional rights, if any, arising out of the filing hereof and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof may be filed or in which any unit of Equipment shall be located and such rights, if any, arising out of the marking of Equipment.

ARTICLE 24. EXECUTION

This Agreement may be executed in any number of counterparts, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although for convenience this Agreement is dated as of the date first above written, the actual dates of execution hereof by the parties hereto are the dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by duly authorized officers as of the date first above written.

AVONDALE INDUSTRIES, INC.
(Ortner Freight Car Division),

[Corporate Seal]

by

Edmund J. Joyce, Jr.
Vice President

Attest:

Edmund J. Joyce, Jr.
~~Assistant Secretary~~

[Corporate Seal]

CHEMICAL BUSINESS CREDIT
CORP.;

Attest:

by

Jeffrey B. Rusk
Assistant Secretary

John W. Barnhart
Attorney-in-Fact

STATE OF NEW YORK,)

) SS.:

COUNTY OF NEW YORK,)

On this day of December 1985, before me personally appeared to me personally known, who, being by me duly sworn, says that he is a Vice President of AVONDALE INDUSTRIES, INC. (ORTNER FREIGHT CAR DIVISION), that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Notary Public

[Notarial Seal]

My Commission expires

STATE OF NEW YORK,)

) SS.:

COUNTY OF NEW YORK,)

On this 30 day of December 1985, before me personally appeared Jane A. Barrett to me personally known, who, being by me duly sworn, says that he is an Attorney-in-Fact for CHEMICAL BUSINESS CREDIT CORP., that one of the seals affixed to the foregoing instrument is the seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Jeffrey S. New
Notary Public

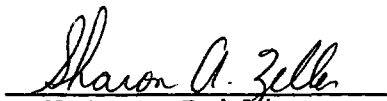
[Notarial Seal]

My Commission expires

JEFFREY B. REITMAN
Notary Public, State of New York
No. 52-8542125
Qualified in Suffolk County
Commission Expires March 30, 1988

STATE OF NEW YORK,)
) ss.:
COUNTY OF NEW YORK,)

On this 27 day of December 1985, before me personally appeared Edward J. Joyce, Jr. to me personally known, who, being by me duly sworn, says that he is a Vice President of AVONDALE INDUSTRIES, INC. (ORTNER FREIGHT CAR DIVISION), that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.


Notary Public

SHARON A. ZELLER
Notary Public State of New York --
No. 30-4792828
Qualified in Nassau County
Certificate filed in New York County
Commission Expires March 30, 1987

[Notarial Seal]

My Commission expires

STATE OF NEW YORK,)
) ss.:
COUNTY OF NEW YORK,)

On this day of December 1985, before me personally appeared to me personally known, who, being by me duly sworn, says that he is an Attorney-in-Fact for CHEMICAL BUSINESS CREDIT CORP., that one of the seals affixed to the foregoing instrument is the seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notarial Seal]

My Commission expires

SCHEDULE I

ALLOCATION SCHEDULE OF EACH \$1,000,000 OF 11-1/2% CSA INDEBTEDNESS

1985 Equipment

	<u>Total Payment</u>	<u>Interest Payment</u>	<u>Principal Recovery</u>	<u>Remaining Ending Principal</u>
6/29/86	*	*	.00	\$1,000,000.00
12/29/86	73610.43	57500.00	16110.43	983889.57
6/29/87	73610.43	56573.65	17036.78	966852.79
12/29/87	73610.43	55594.04	18016.39	948836.40
6/29/88	73610.43	54558.09	19052.34	929784.06
12/29/88	73610.43	53462.58	20147.85	909636.21
6/29/89	73610.43	52304.08	21306.35	888329.86
12/29/89	73610.43	51078.97	22531.46	865798.40
6/29/90	73610.43	49783.41	23827.02	841971.38
12/29/90	73610.43	48413.35	25197.08	816774.30
6/29/91	63268.34	46964.52	16303.82	800470.48
12/29/91	64710.52	46027.05	18683.47	781787.01
6/29/92	61173.68	44952.75	16220.93	765566.08
12/29/92	63135.60	44020.05	19115.55	746450.53
6/29/93	59238.52	42920.91	16317.61	730132.92
12/29/93	61548.53	41982.64	19565.89	710567.03
6/29/94	57285.40	40857.60	16427.80	694139.23
12/29/94	59946.19	39913.01	20033.18	674106.05
6/29/95	55312.78	38761.10	16551.68	657554.37
12/29/95	58327.71	37809.38	20518.33	637036.04
6/29/96	53319.58	36629.57	16690.01	620346.03
12/29/96	56692.23	35669.90	21022.33	599323.70
6/29/97	51304.70	34461.11	16843.59	582480.11
12/29/97	55038.81	33492.61	21546.20	560933.91
6/29/98	49567.00	32253.70	17313.30	543620.61
12/29/98	53667.58	31258.19	22409.39	521211.22
6/29/99	48154.64	29969.65	18184.99	503026.23
12/29/99	52559.25	28924.01	23635.24	479390.99
6/29/00	46741.96	27564.98	19176.98	460214.01
12/29/00	51391.36	26462.31	24929.05	435284.96
6/29/01	45249.21	25028.89	20220.32	415064.64
12/29/01	70564.93	23866.22	46698.71	368365.93
6/29/02	73610.43	21181.04	52429.39	315936.54
12/29/02	73610.43	18166.35	55444.08	260492.46
6/29/03	73610.43	14978.32	58632.11	201860.35
12/29/03	73610.43	11606.97	62003.46	139856.89
6/29/04	73610.43	8041.77	65568.66	74288.23
12/29/04	73610.43	4271.57	69338.86	4949.37
6/29/05	5233.96	284.59	4949.37	.00

* Interest only on the CSA Indebtedness accrued to this date shall be payable pursuant to Article 4 hereof.

SCHEDULE I

ALLOCATION SCHEDULE OF EACH \$1,000,000 OF 11-1/2% CSA INDEBTEDNESS

1986 Equipment

	<u>Total Payment</u>	<u>Interest Payment</u>	<u>Principal Recovery</u>	<u>Remaining Ending Principal</u>
6/29/86	*	*	.00	\$1,000,000.00
12/29/86	72108.23	57500.00	14608.23	985391.77
6/29/87	72108.23	56660.03	15448.20	969943.57
12/29/87	72108.23	55771.76	16336.47	953607.10
6/29/88	72108.23	54832.41	17275.82	936331.28
12/29/88	72108.23	53839.05	18269.18	918062.10
6/29/89	72108.23	52788.57	19319.66	898742.44
12/29/89	72108.23	51677.69	20430.54	878311.90
6/29/90	72108.23	50502.93	21605.30	856706.60
12/29/90	72108.23	49260.63	22847.60	833859.00
6/29/91	72108.23	47946.89	24161.34	809697.66
12/29/91	72108.23	46557.62	25550.61	784147.05
6/29/92	67427.14	45088.46	22338.68	761808.37
12/29/92	62644.56	43803.98	18840.58	742967.79
6/29/93	58940.78	42720.65	16220.13	726747.66
12/29/93	61026.47	41787.99	19238.48	707509.18
6/29/94	57035.47	40681.78	16353.69	691155.49
12/29/94	59479.03	39741.44	19737.59	671417.90
6/29/95	55128.15	38606.53	16521.62	654896.28
12/29/95	57913.63	37656.54	20257.09	634639.19
6/29/96	53197.66	36491.75	16705.91	617933.28
12/29/96	56329.03	35531.16	20797.87	597135.41
6/29/97	51242.67	34335.29	16907.38	580228.03
12/29/97	54724.18	33363.11	21361.07	558866.96
6/29/98	49261.85	32134.85	17127.00	541739.96
12/29/98	53097.96	31150.05	21947.91	519792.05
6/29/99	47532.22	29888.04	17644.18	502147.87
12/29/99	51728.65	28873.50	22855.15	479292.72
6/29/00	46098.18	27559.33	18538.85	460753.87
12/29/00	50598.09	26493.35	24104.74	436649.13
6/29/01	44657.16	25107.32	19549.84	417099.29
12/29/01	49406.71	23983.21	25423.50	391675.79
6/29/02	43137.62	22521.36	20616.26	371059.53
12/29/02	48150.24	21335.92	26814.32	344245.21
6/29/03	41535.06	19794.10	21740.96	322504.25
12/29/03	46825.12	18543.99	28281.13	294223.12
6/29/04	42643.88	16917.83	25726.05	268497.07
12/29/04	72108.23	15438.58	56669.65	211827.42
6/29/05	72108.23	12180.08	59928.15	151899.27
12/29/05	72108.23	8734.21	63374.02	88525.25
6/29/06	72108.23	5090.20	67018.03	21507.22
12/29/06	22743.89	1236.67	21507.22	.00

* Interest only on the CSA Indebtedness accrued to this date shall be payable pursuant to Article 4 hereof.

CERTIFICATE OF ACCEPTANCE

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY ("Agent")
GEORGIA POWER COMPANY ("Lessee")

The undersigned, the duly authorized representative of the Owner and the Lessee, does hereby certify that:

Under authority and on behalf of the Owner and the Lessee, I have inspected and accepted delivery of, at the place and on the date set forth below, the following described Units of Railroad Equipment (Units), as conforming to the specifications and other requirements of that certain Conditional Sale Agreement, dated as of December 15, 1985 (the "CSA"), between Avondale Industries, Inc. (Ortner Freight Car Division) and the Owner (certain of the Builder's rights therein having been assigned to the Vendor under a certain Agreement and Assignment, dated as of said date):

<u>Number of Units</u>	<u>Description</u>	<u>Lessee Road Numbers</u>
	106 ton Quick Dump Aluminum Coal Hopper Cars Manufactured by Ortner Freight Car Division	

I further certify that there was plainly, distinctly, permanently and conspicuously marked on each side of each such Unit, at the time of its acceptance, in letters not less than one inch in height, the words:

"OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED
WITH THE INTERSTATE COMMERCE COMMISSION"

This Certificate is being delivered pursuant to Section 3.4 of the CSA and § 2.1 of that certain Lease of Railroad Equipment, dated as of said date, between the Lessee and the Owner and is subject to the terms and conditions of both such agreements.

Authorized Representative
Inspected and delivery accepted at Milford, Ohio this day
of , 198 .

ANNEX A
TO
CONDITIONAL SALE AGREEMENT

Information Relating to Building of Equipment

- Item 1: Avondale Industries, Inc. (Ortner Freight Car Division, a Delaware corporation, 5300 DuPont Circle, Milford, Ohio 45150
- Item 2: The 1985 Equipment shall be settled for in no more than two Groups and the 1986 Equipment will be settled for in no more than five Groups, unless the parties hereto shall otherwise agree.
- Item 3: The Builder warrants that the Equipment will be built in accordance with the requirements, Specifications and standards set forth in Article 2 of the Conditional Sale Agreement to which this Annex A is attached (hereafter called this "Agreement") and warrants that the Equipment will be free from defects in design, workmanship and material. The Builder, at its sole expense, shall promptly make all adjustments, repairs or replacements necessary to remedy any failure or deficiency in the Equipment resulting from defects in the design, workmanship or materials used in producing the Equipment or any failure to meet the Specifications which shall appear within a minimum of (3) three years from the date the equipment and/or material is delivered to and accepted by the Lessee. The Builder shall be responsible to the Owner and the Lessee for the cost of repair or replacement of any equipment or material not supplied by the Builder when same is damaged as a result of the failure of the Equipment to comply with the aforementioned warranties. The Lessee shall assist in every manner in minimizing the expense of such repair work.

In addition, the Builder shall, at his own expense, make such tests as the Lessee or AAR may require to show the effect of such repair or replacement on the Equipment and its performance. The Equipment, or parts thereof, repaired or replaced under the three year warranty shall be further warranted from the date such repair or replacement is completed for the remaining

balance of the three year warranty. THE FOREGOING WARRANTY OF THE BUILDER IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, EXCEPT FOR ITS OBLIGATIONS OR LIABILITIES UNDER ARTICLES 2, 3, 4 AND 14 OF THE AGREEMENT, and the Builder neither assumes nor authorizes any person to assume for it any other liability in connection with the construction and delivery of the Equipment, except as aforesaid. In no event shall the Builder be liable for special or consequential damages.

The Builder further agrees with the Owner and the Lessee that neither the inspection as provided in Article 3 of this Agreement nor any examination nor the acceptance of any units of the Equipment as provided in said Article 3 shall be deemed a waiver or a modification by the Vendee and the Lessee of any of their rights under this Item 3.

Item 4: The Builder shall indemnify, save harmless, and defend the Owner and the Lessee with regard to all claims, suits, and proceedings against the Owner or the Lessee based on the contention, whether groundless or not, that any apparatus, or part thereof, furnished under this Agreement (regardless of by whom designed, fabricated, or manufactured) constitutes an infringement of any patent. The Builder shall pay all costs and expenses of investigation, defense, and settlement or judgment of any such claim, suit or proceeding. In case the said apparatus, or any part thereof, is held in any suit to constitute infringement and the use of said apparatus or part is enjoined, the Builder shall, at its own expense, either (1) procure for the Owner and the Lessee the right to continue using said apparatus or part, (2) replace same with non-infringing apparatus, or (3) modify same so that it becomes non-infringing. If the Builder is unable to comply with any of the alternatives in the preceding sentence, then the Builder may, upon terms and conditions satisfactory to the Owner and the Lessee, remove said apparatus and refund the purchase price and the transportation and installation costs thereof. The Builder agrees to and hereby does, to the extent legally

possible without impairing any claim, right or cause of action hereinafter referred to, assign, set over and deliver to the Lessee every claim, right and cause of action which the Builder has or hereafter shall have against the seller or sellers of any designs, systems, processes, formulae, combinations, articles or materials specified by the Lessee and purchased or otherwise acquired by the Builder for use in or about the construction or operation of any of the Equipment, on the ground that any such design, system, process, formula, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right. Such covenants of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement, the satisfaction and discharge of this Agreement or the termination of this Agreement in any manner.

Item 5: The Maximum Purchase Price referred to in Article 4 of the Conditional Sale Agreement to which this Annex A is attached is \$26,489,971 plus the aggregate amount, if any, by which the commitments of the Investors and the Owner are increased pursuant to § 2.1 of the Participation Agreement.

ANNEX B
TO
Conditional Sale Agreement
Units of Railroad Equipment

Type	AAR Mechanical Designation	Builder's Plant	Lessee's Identification Numbers		Quantity	Unit Base Price*	Total Base Price*	Estimated Time and Place of Delivery
			(Both Inclusive)					
106 ton Quick Dump Aluminum Coal hopper cars	HTS	Milford, Ohio			140 1985 units	\$44,362.74	\$ 6,210,783.60	12/13/85- 3/15/86 at Builder's Plant
					460 1986 units			
106 ton Quick Dump Aluminum Coal hopper cars	HTS	Milford, Ohio				\$44,085.19	20,279,187.40	
							<u>\$26,489,971.00</u>	

* Includes prepaid freight, storage and inspection costs payable to the Builder.

Annex C
To
Conditional Sale Agreement

[CS&M Ref. 2046-166]

LEASE OF RAILROAD EQUIPMENT

Dated as of December 15, 1985

Between

GEORGIA POWER COMPANY,
as Lessee,

and

CHEMICAL BUSINESS CREDIT CORP.,
as Lessor.

[Covering 600 Ortner 106 Ton Quick Dump Aluminum Coal Hopper Cars]

The rights and interests of the Lessor under this Lease are subject to a security interest in favor of MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Agent for institutional investors. The original of this Lease is held by said Agent.

LEASE OF RAILROAD EQUIPMENT dated as of December 15, 1985, between GEORGIA POWER COMPANY, a Georgia corporation ("Lessee"), and CHEMICAL BUSINESS CREDIT CORP., a Delaware corporation ("Owner").

The Owner is entering into a Conditional Sale Agreement dated as of the date hereof ("CSA") with AVONDALE INDUSTRIES, INC. (ORTNER FREIGHT CAR DIVISION), a Delaware corporation ("Builder"), pursuant to which the Builder has agreed to sell and deliver to the Owner the units of railroad equipment described in Schedule A hereto ("Equipment").

The Builder is assigning its interests in the CSA to MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, acting as agent for institutional investors (said bank, as so acting, together with its successors and assigns, "Vendor") under a Participation Agreement dated as of the date hereof ("Participation Agreement") with the Lessee, the Owner and such institutional investors (together with their successors and assigns, the "Investors").

The Lessee desires to lease such number of units of the Equipment as are delivered and accepted and settled for under the CSA ("Units") at the rentals and for the terms and upon the conditions hereinafter provided.

The Owner will assign this Lease for security to the Vendor pursuant to an Assignment of Lease and Agreement ("Lease Assignment") dated as of the date hereof, and the Lessee will consent to the Lease Assignment pursuant to a Lessee's Consent and Agreement ("Consent") dated as of the date hereof.

NOW, THEREFORE, in consideration of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Owner hereby leases the Units to the Lessee upon the following terms and conditions:

§ 1. NET LEASE

1.1. Net Lease. This Lease is a net lease. The Lessee's obligation to pay all rentals and other amounts hereunder shall be absolute and unconditional and, except as herein provided, the Lessee shall not be entitled to any abatement of rent or of other amounts due hereunder, reduction thereof or setoff against rent or such other amounts,

including, but not limited to, abatements, reductions or setoffs due or alleged to be due by reason of any past, present or future claims of the Lessee against the Owner under this Lease or under the CSA, including the Lessee's rights by subrogation thereunder against the Vendor or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Owner or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units of Equipment from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization or approval of this Lease, any present or future insolvency of or the bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each payment of rentals, Casualty Values and Termination Values made by the Lessee hereunder shall be final, and the Lessee shall not seek to recover all or any part of such payment from the Owner or the Vendor for any reason whatsoever. Nothing in this § 1.1 shall be construed as a waiver of or shall limit the Lessee's right of action against the Lessor or any other person for damages which arises out of, whether in whole or part, any breach by the Lessor or such other person of any provision of this Lease or any agreement relating hereto. Notwithstanding anything herein to the contrary, the Lessee shall remain fully liable for its obligations under this Lease to the extent the same shall not be satisfied in full regardless of the expiration of the basic term or any renewal term or the termination of the Lessee's rights pursuant to § 10 herein.

§ 2. DELIVERY AND ACCEPTANCE OF UNITS

2.1. Delivery and Acceptance of Units. The Owner hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to Section 3.4 of the CSA. Each delivery of a Unit to the Owner under the CSA shall be deemed to be a delivery hereunder to the Lessee at the point or points within the United States of America at which such Unit is delivered to the Owner under the CSA. Upon such delivery, the Lessee will cause an employee or agent of the Lessee to inspect same, and if such Unit is found to be acceptable, to accept delivery of such unit on behalf of the Owner under the CSA and itself hereunder and execute and deliver to the Owner a certificate of acceptance ("Certificate of Acceptance") in accordance with the provisions of Section 3.4 of the CSA, stating that such Unit has been inspected and accepted on behalf of the Lessee and the Owner on the date of such Certificate of Acceptance and is marked in accordance with § 5 hereof, whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease. The Lessee hereby represents and warrants to the Owner that no Unit shall be put into service by the Lessee or any person under the control of or with the consent of the Lessee earlier than three months prior to the date of delivery to and acceptance by the Lessee as agent for the Owner hereunder. The delivery, inspection and acceptance hereunder of any unit of Equipment excluded from the CSA pursuant to Section 3.3 or 4.1 thereof shall be null and void and ineffective to subject such Unit to this Lease.

2.2. Designation of 1985 and 1986 Units. All Units which are accepted hereunder on or prior to December 31, 1985, shall be called "1985 Units", and the balance of the Units accepted hereunder after December 31, 1985, and on or prior to June 28, 1986, shall be called "1986 Units". The Owner and the Lessee shall enter into a supplement hereto promptly after final settlement for all Units setting forth the road numbers of the Units which are designated 1985 and 1986 Units.

§ 3. RENTALS

3.1. Amount and Date of Payment. (1) The Lessee will pay to the Owner, as rental for each 1985 Unit subject to this Lease, 44 consecutive semiannual payments, payable in arrears on June 29 and December 29 in each year, commencing December 29, 1986, to and including June 29, 2008 (each such payment to cover the six month period ending on such payment date). In respect of each 1985 Unit, the 44 semiannual rental payments shall each be in an amount equal

to 4.68224% of the Purchase Price of each such 1985 Unit.

(2) The Lessee will pay to the Owner, as rental for each 1986 Unit subject to this Lease, the 44 consecutive semiannual payments, payable in arrears on June 29 and December 29 in each year, commencing December 29, 1986, to and including June 29, 2008 (each such payment to cover the six month period ending on such payment date). In respect of each 1986 Unit, the 44 semiannual payments shall each be in an amount equal to 4.9442442% of the Purchase Price of each such 1986 Unit.

(3) The foregoing rentals and the Casualty Values and the Termination Values set forth in Schedule B hereto, have been calculated on the following assumptions: (i) the Deposit Date will be December 30, 1985, (ii) the term of the Lease will commence on December 30, 1985, (iii) the debt rate will be 11.5%, (iv) transaction costs will be zero, (v) no change will occur after November 13, 1985 and prior to December 30, 1985, in any applicable law, rule, regulation or order, or in the interpretation of any thereof by a court, regulatory or other authority, which would adversely affect the Net Return or Net Cash Flow (as defined in section 6(c)(A) of the Indemnity Agreement) and (vi) no Change of Law, as defined in section 6(b) of the Indemnity Agreement, will occur. If for any reason any of the above assumptions shall not be true and accurate, the Lessor and the Lessee agree that (in the case of an assumption other than that set forth in Clause (vi)) the rentals payable hereunder and the Casualty Values and Termination Values set forth in Schedule B hereto will be adjusted, if necessary, in order that the Owner's Net Return or Net Cash Flow will not be increased or decreased by reason thereof and that (in the case of the assumption set forth in clause (vi)) the provisions of section 6(b) of the Indemnity Agreement shall be applied. The amount of any such adjustment will be determined by the Owner; provided, that the Lessee shall have the right, by written request, to have Arthur Andersen & Co. (or such other independent third party selected by the Owner as shall be acceptable to the Lessee), at the Lessee's expense, review the computations made by the Owner to determine compliance by the Owner with the foregoing sentences and the determinations made pursuant to such review shall be binding in the Lessee and the Lessor with respect to any disagreement they may have concerning any such computations. Such adjustment shall thereafter become effective when a responsible officer of the Owner

shall certify in writing to the Lessee that such adjustment was determined in good-faith compliance with the second sentence of this paragraph (3). The Lessor and the Lessee agree to execute an amendment to this Lease to reflect each such adjustment; provided that such adjustment shall be effective for all purposes of this Lease regardless of whether such amendment is actually executed and delivered.

(4) The Lessee will pay to the Owner as additional rentals amounts equal to the amounts required by the Owner to make the payments provided for in the last paragraph of Section 8.1 of the Participation Agreement on the dates required for such payments, and the Owner agrees to apply such rentals for such purposes. In addition, the Lessee will pay to the Owner, on demand, as additional rentals hereunder, all amounts of Investment Losses (as defined in Section 2.1 of the Participation Agreement) and Investment Deficiencies (as defined in Section 2.5 of the Participation Agreement).

(5) In no event shall the aggregate of the foregoing rentals, Casualty Values and Termination Values be less than the amounts required to enable the Owner to satisfy its obligations to pay when due (determined without regard to any acceleration thereof) the CSA Indebtedness, premium, if any, and interest thereon.

3.2. Payment on Nonbusiness Day. If any of the semiannual rental payment dates provided herein is not a business day (as such term is defined in the CSA) the rental payment otherwise payable on such date shall then be payable on the next succeeding business day, and no interest shall be payable for the period from and after the nominal date for payment thereof to such next succeeding business day.

3.3. Instructions To Pay Vendor and Owner. Until the Vendor notifies the Lessee that the CSA is no longer in effect, the Owner irrevocably instructs the Lessee to make all the payments due the Owner provided for in this Lease (other than Excluded Payments as defined in the Lease Assignment) to the Vendor, for the account of the Owner, in care of the Vendor. The Owner has instructed the Vendor (a) first to apply such payments to satisfy the obligations of the Owner under the CSA known to the Vendor to be due and payable on the date such payments are due and payable hereunder and (b) second, so long as no event of default under the CSA shall have occurred and be continuing, to pay any balance promptly to the Owner or to the order of the Owner in immediately available funds at such place as the

Owner shall specify in writing. The Lessee shall have no responsibility with respect to the application by the Vendor of payments made by it in accordance with the first sentence of this paragraph.

3.4. Payment in Immediately Available Funds. The Lessee agrees to make each payment provided for in §§ 3.1, 7 and 13 hereof in immediately available funds at or prior to 11:00 a.m., Baltimore time, at the office of the Vendor on the date due, or, if the CSA shall no longer be in effect, at the office of the Owner.

§4. TERM OF LEASE

4.1. Beginning and Termination; Survival. The term of this Lease as to each Unit shall begin on the date of delivery and acceptance of such Unit hereunder and, subject to the provisions of §§ 7, 10 and 13 hereof, shall terminate on the date on which the final payment of rent in respect thereof is due pursuant to § 3 hereof. The obligations of the Lessee hereunder (including, but not limited to §§ 3, 6, 7, 9, 13 and 15 hereof) shall survive the expiration of the term of this Lease.

4.2. Rights and Obligations of Lessee Subject to CSA. Notwithstanding anything to the contrary contained herein, all rights and obligations of the Lessee under this Lease and in and to the Units are subject to the rights and obligations of the Vendor under the CSA. If an event of default should occur under the CSA, the Vendor may terminate this Lease (or rescind its termination) without affecting the indemnities which by the provisions of this Lease survive the termination of its term; provided, however, that so long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Vendor is entitled to apply the Payments (as defined in the Lease Assignment) in accordance with the Lease Assignment, this Lease may not be terminated and the Lessee shall be entitled to the rights of possession, use and assignment under § 12 hereof. The Owner covenants that so long as an Event of Default hereunder or an event which, with the passage of time or the giving of notice, or both, would constitute an Event of Default hereunder shall not have occurred and be continuing, it will not interfere in the Lessee's quiet enjoyment or possession of any Unit and agrees that the Lessee shall not be deprived of its right of quiet enjoyment and possession of any Unit as a result of any act of, or claim against, the Owner not

related to the transactions contemplated by the Participation Agreement or its ownership of the Units.

§ 5. IDENTIFICATION MARKS

The Lessee will cause each Unit to be kept numbered with the identifying number set forth in Schedule A hereto, or in the case of any Unit not there listed such identifying number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side in letters not less than one inch in height, the words, "OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTERSTATE COMMERCE COMMISSION", or other appropriate words designated by the Vendor or the Owner, with appropriate changes thereof and additions thereto as from time to time may be designated by the Owner or the Vendor as required by law or reasonably requested in order to protect the Owner's and the Vendor's title to and interest in such Unit and the rights of the Owner under this Lease and of the Vendor under the CSA. The Lessee will not place or permit any such Unit to be placed in operation or exercise any control or dominion over the same until such words shall have been so marked on both sides thereof and will replace or cause to be replaced promptly any such name and words which may be removed, defaced, obliterated or destroyed. The Lessee will not change or permit to be changed the identifying number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and the Owner and filed, recorded and deposited by the Lessee in all public offices where this Lease and the CSA shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Vendor and the Owner an opinion of counsel to the effect that such statement has been so filed, recorded and deposited, such filing, recordation and deposit will protect the Vendor's and the Owner's interests in such Units and no filing, recording, deposit or giving of notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interests of the Vendor and the Owner in such Units.

Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee may permit the Equipment to be lettered with the

names, trademarks, initials or other insignias customarily used by the Lessee or any of its affiliates on railroad equipment used by it of the same or a similar type for convenience of identification of its rights to use the Equipment under this Lease, and the Equipment may be lettered in an appropriate manner for convenience of identification of the interest of the Lessee therein.

The Lessee may make any change in the lettering of the names, trademarks, initials or other insignias at any time and as often as it deems it appropriate to do so. At the expiration of the Lease or any extension hereof, the Owner will promptly remove, at the Lessee's sole expense, the Lessee's names, trademarks, initials or other insignias and will not allow the Units to be used or operated without first removing same.

§ 6. TAXES

Whether or not any of the transactions contemplated hereby are consummated, the Lessee shall pay, and shall indemnify, protect, save and keep harmless the Owner, the Vendor and the Investors (referred to collectively, together with their respective agents, servants, successors and assigns, as "Indemnified Persons" and individually as "Indemnified Person") from and against, any and all fees, taxes (including, without limitation, income, franchise, excise, sales, use, occupational, capital, value-added, property and stamp taxes), levies, assessments, imposts, duties, charges or withholdings of any nature whatsoever, together with any penalties, fines or interest thereon (all of the foregoing being herein collectively called "Taxes") imposed against such Indemnified Person, the Lessee or the Equipment or any part thereof by any Federal, state or local government or taxing authority or by any foreign government, foreign governmental subdivision or other foreign taxing authority (i) upon or with respect to the Units or any part thereof or any interest in any thereof, or (ii) upon or with respect to the manufacture, acquisition, construction, installation, purchase, delivery, ownership, lease, sublease, possession, rental, use, operation, transportation, return, sale, replacement, storage or disposition of the Units or any part thereof, or (iii) upon or with respect to the rentals, receipts, earnings or gains arising from the Units or any part thereof or the income or proceeds with respect to the Units, including, without limitation, principal, interest and other amounts payable on the CSA Indebtedness, or (iv) upon or with respect to this Lease or any

other Documents (as defined in the recitals to the Participation Agreement) including the performance of any of the transactions contemplated hereby or thereby, or the issuance, acquisition or transfer of the CSA Indebtedness or the establishment of the beneficial interest of the Owner in the Units, excluding, however: (1) Taxes which are based on, or measured by, the net income of any Indemnified Person to the extent imposed by the United States of America; (2) Taxes which are based on, or measured by, the net income of any Indemnified Person to the extent imposed by the state, city or municipality in which the principal office of such Indemnified Person is located or by any political subdivision of such state, city or municipality in which such principal office is located ; (3) Taxes which are based on, or measured by, the net income of any Indemnified Person imposed by a state, city or municipality in which such Indemnified Person (and, in the case of the Owner, including any other corporation with which the Owner files a consolidated tax return in such jurisdiction), is subject to net income taxes for reasons other than the leasing of the Equipment located in such jurisdiction; (4) Taxes imposed on or for the account of any Indemnified Person that result from the gross negligence or wilful misconduct of such Indemnified Person; (5) Taxes which are imposed with respect to any period, or with respect to any act, occurring after the termination of this Lease and the return of the Units to the Owner in accordance with § 14 of this Lease (unless such termination shall have occurred as a result of this Lease having been declared in default pursuant to § 10 hereof); (6) Taxes for which the Lessee is obligated to indemnify the Owner pursuant to the Indemnity Agreement; and (7) Taxes imposed by any foreign government or taxing authority or governmental subdivision of a foreign country to the extent utilized by an Indemnified Person as a credit against United States Federal income taxes otherwise payable by such Indemnified Person, assuming for this purpose that such Indemnified Person, utilizes (A) first, all foreign taxes (including foreign taxes which are carried over to the taxable year for which a determination is being made) other than those described in the succeeding clause (B), and (B) then, in the order in which such foreign taxes are deemed to be utilized under the Code and (as to foreign taxes paid or incurred in a particular taxable year) on a pro rata basis, all foreign taxes (including foreign taxes which are carried over to the taxable year for which a determination is being made) with respect to which such Indemnified Person is entitled to obtain indemnification pursuant to an indemnification provision contained in any lease or participation or other tax indemnity agreement relating to a lease (including this Agreement); provided, however, that if the utilization by such Indemnified Person of foreign taxes otherwise payable by the Lessee as a credit

against such Indemnified Person's United States Federal income taxes later results in the expiration of any foreign tax credit carryovers or carrybacks of such Indemnified Person that would not otherwise have expired, then the amount of such carryovers or carrybacks shall be treated as Taxes to which this § 6 shall apply, provided, further, however, that all determinations as to the utilization of Taxes as credit and as to whether Taxes are to be excluded from the Lessee's indemnity contained in this § 6 pursuant to this clause (7) shall be made by such Indemnified Person, which determinations shall be conclusive and binding on the Lessee if such Indemnified Person shall certify in writing to the Lessee that such determinations were made in good faith compliance with the provisions in this clause (7); provided, further, however, that the Lessee agrees to pay any such Taxes referred to in the foregoing clauses (1) through (7) which are in substitution for or relieve the Lessee from any Taxes or indemnity therefor which and to the extent the Lessee would otherwise be obligated to pay under the terms of this § 6.

With respect to any payment or indemnity under this § 6, such payment or indemnity shall include any amount necessary to hold any Indemnified Person receiving such payment harmless on a net after-tax basis (taking into account any tax benefit or detriment realized by such Indemnified Person as a result of such payment) from all taxes required to be paid by such Indemnified Person with respect to such payment or indemnity under the laws of any Federal, state or local government or taxing authority in the United States of America or any foreign government, foreign governmental subdivision or other foreign taxing authority. In case any report or return is required to be filed with respect to any obligation of the Lessee under this § 6 or arising out of this § 6, the Lessee will either make such report or return in such manner as will show the ownership of the Units in the Owner or will notify the Owner of such requirement and make such report or return in such manner as shall be satisfactory to the Owner.

Upon the commencement of any proceeding or the receipt by the Indemnified Person of a written claim against an Indemnified Person involving one or more Taxes, such Indemnified Person shall promptly, upon receiving written notice thereof, give notice thereof to the Lessee. The Lessee shall be entitled (a) in any proceeding that involves solely a claim for one or more Taxes, to assume responsibility for and control thereof, (b) in any proceeding involving a claim for one or more Taxes and other claims related or unrelated to the transactions contemplated by the

Documents, to assume responsibility for and control of such claim for a Tax to the extent that the same may be and is severed from such other claims (and such Indemnified Person shall use reasonable efforts to obtain such severance unless, in the opinion of counsel for such Indemnified Person, such severance and assumption of responsibility and control by the Lessee has a reasonable possibility of adversely affecting the resolution of such other claims) or (c) in any other case, to be consulted by such Indemnified Person with respect to proceedings subject to the control of such Indemnified Person. Notwithstanding any of the foregoing to the contrary, the Lessee shall not be entitled to assume the responsibility for and control of any such judicial proceedings, and the Indemnified Person shall have no obligation to institute such proceedings, if (1) the Taxes involved are less than \$25,000 in the aggregate, (2) an Event of Default (as defined in § 10 hereof) or any event which with the lapse of time or the giving of notice or both would become such an Event of Default ("Default") shall have occurred and be continuing, (3) such proceedings will involve any substantial danger of the sale, forfeiture or loss of the Units or any part thereof, or (4) such Tax relates in any way to the business of any Indemnified Person other than the leasing of the Units or, (5) the Lessee shall not have furnished such Indemnified Person with an opinion of independent counsel reasonably satisfactory to such Indemnified Person to the effect that there exists a meritorious basis for contesting that Tax. Such Indemnified Person may participate at its own expense in any proceeding controlled by the Lessee pursuant to the preceding provisions.

The Indemnified Person shall supply the Lessee with such information requested by the Lessee as in the reasonable opinion of counsel to such Indemnified Person is necessary or advisable for the Lessee to control or participate in any proceeding to the extent permitted by this § 6. Unless the Lessee is excluded from control of a proceeding involving an Indemnified Person pursuant to the preceding paragraph or a Default or Event of Default has occurred and is continuing, such Indemnified Person shall not enter into a settlement or other compromise with respect to any Tax without prior written consent of the Lessee, which consent shall not be unreasonably withheld or delayed, unless such Indemnified Person waives its right to be indemnified with respect to such Tax under this § 6.

If an Indemnified Person shall obtain a repayment of any Tax paid by the Lessee pursuant to this § 6, such Indemnified Person shall promptly pay to the Lessee the amount of such repayment, together with any interest (other

than interest for the period, if any, after such Tax was paid by such Indemnified Person until such Tax was paid or reimbursed by the Lessee) received by such Indemnified Person on account of such repayment, plus or minus, as the case may be, the net amount of all Federal, State, Local and Foreign tax benefits and detriments realized by such Indemnified Person as a result of obtaining such repayment and its payment over to the Lessee.

As between the Lessee and the Lessor, if there is any conflict between this § 6 and any provision of the Indemnity Agreement, the provision of the Indemnity Agreement shall control. The provisions of this § 6 shall survive the expiration or termination of this Lease and the other Documents.

§ 7. PAYMENT FOR CASUALTY OCCURRENCES, INSURANCE, ECONOMIC OBSOLESCENCE

7.1. Definition of Casualty Occurrence; Payments.

In the event that any Unit shall be or become worn out, lost, stolen, destroyed, irreparably damaged, or permanently rendered unfit for use from any cause whatsoever, or taken or requisitioned by condemnation or otherwise resulting in loss of possession by the Lessee for a period of 90 consecutive days (or such shorter period as shall exceed the then remaining term of this Lease), except requisition for use by the United States Government ("Government") for a period not in excess of the then remaining term of this Lease (such occurrences being hereinafter called "Casualty Occurrences") during the term of this Lease, or until such Unit shall have been returned in the manner provided in § 11 or 13 hereof, the Lessee shall within ten days after it shall have reasonably determined that such Unit has suffered a Casualty Occurrence notify the Owner and the Vendor with respect thereto specifying the date, cause and extent of such Casualty Occurrence. On the semiannual rental payment date next succeeding the delivery of such notice (or, in the event the term of this Lease has already expired or will expire within 10 days after delivery of such notice, on a date within 10 days of such delivery), the Lessee shall, subject to the last paragraph of this § 7.1, pay to the Owner an amount equal to the rental payment or payments in respect of such Unit due and payable on such date plus a sum equal to the Casualty Value (as defined in the next sentence) of such Unit as of the rental payment date next succeeding such Casualty Occurrence in accordance with Schedule B hereto. The Casualty Value of each Unit as of

the payment date on which payment is to be made as aforesaid shall be that percentage of the Purchase Price of such Unit as is set forth in Schedule B hereto opposite the rental payment date next succeeding such Casualty Occurrence. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue as of the date of such payment, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Owner shall be entitled to recover possession of such Unit at its own expense. The Casualty Value of each Unit after the last rental payment date of the original term of this Lease shall be the same as the Casualty Value for such last rental payment date.

Notwithstanding the foregoing provisions of this § 7.1, the Lessee shall not be required to make any Casualty Payment in respect of any Unit suffering a Casualty Occurrence after December 15, 1991 ("Casualty Unit") if (i) at least 30 days prior to the date on which such Casualty Payment would otherwise be due ("Due Date"), the Lessee shall give written notice to the Owner that the Lessee will transfer to the Owner for lease hereunder other similar equipment ("Substitute Equipment") with a Fair Market Value (as defined in § 13.1 hereof) at least equal to the Fair Market Value of such Casualty Unit and with a coal carrying capacity substantially the same as that of such Casualty Unit and (ii) prior to the Due Date the Lessee shall have transferred to the Owner, by bill of sale free of all liens, claims and other encumbrances accompanied by an opinion of counsel for the Lessee as to such bill of sale, such Substitute Equipment and an appropriate supplement to this Lease and the CSA adding such Substitute Equipment shall have been filed with the Vendor and the Owner and filed, recorded and deposited by the Lessee in all public offices where this Lease and CSA shall have been filed, recorded and deposited. The Purchase Price of the Substitute Equipment shall be deemed to be the same as the Purchase Price of the Casualty Unit.

7.2. Lessee Agent for Disposal. The Owner hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence or any component thereof, before or after the expiration of this Lease, at the best price obtainable by the Lessee upon exercise of reasonable efforts on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Owner and is not in default hereunder, the Lessee shall be entitled to the proceeds of such disposition to the extent they do not

exceed the Casualty Value of such Unit plus the reasonable expenses of the sale, and shall pay any excess to the Owner.

7.3. Requisition by United States Government. In the event of the requisition for use by the Government of any Unit for a period which does not exceed the term of this Lease, all the obligations of the Lessee under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred. All payments received by the Owner or the Lessee from the Government for the use of such Unit during the term of this Lease shall be paid over to, or retained by, the Lessee provided no Event of Default or Default shall have occurred and be continuing.

7.4. No Release. Except as hereinabove in this § 7 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit from and after delivery and acceptance thereof by the Lessee hereunder until expiration of this Lease and Lessee's obligations under §§ 11 and 13 hereof.

7.5. Insurance. The Lessee shall, at all times prior to the return of the Equipment to the Owner, at its own expense, cause to be carried and maintained, with insurers reasonably satisfactory to the Owner and the Vendor, public liability insurance and all risk property damage insurance in respect of the Units, naming the Owner and the Vendor as additional named insureds and, in the case of property damage insurance, as loss payees, as their interests may appear, at least in amounts and against risks customarily insured against by prudent railroad industry practice in respect of equipment similar to the Equipment and in any event comparable to insurance maintained by the Lessee in respect of similar equipment owned or leased by it. In no event shall the coverage of the all risk property damage insurance with respect to any Unit at any time be less than the applicable Casualty Value for such Unit; it being understood that the Lessee may self-insure, on a per occurrence basis, up to \$5,000,000 in the aggregate in respect of its public liability insurance and all risk property damage insurance (such self-insurance limit to be revised by the Lessee with the approval of the Lessor and the Vendor which approval shall not be unreasonably withheld based on industry standards at the time).

The Lessee shall obtain from each insurer an agreement, by endorsement or separate instrument, that such insurer will give the Owner and the Vendor 30 days' written notice before such insurer's policy shall be materially altered or canceled or not renewed. On or before April 30 of each year, the Lessee shall deliver to the Owner and the

Vendor a certificate of insurance by or on behalf of each insurer stating the coverage, named insureds and limits of each such policy. Any policies of insurance carried in accordance with this paragraph shall in addition waive any right to claim premiums or commissions against the Owner or the Vendor and such policies shall provide that in respect of the interests of the Owner and the Vendor in such policies the insurance shall not be invalidated by any action or inaction of the Lessee or any other person (other than the Owner and the Vendor, respectively) and shall insure the Owner and the Vendor regardless of any breach or violation of any warranty, declaration or condition contained in such policies by the Lessee or by any other person (other than the Owner or the Vendor, respectively).

7.6. Insurance Proceeds and Condemnation Payments. If the Owner shall receive (directly or from the Vendor) any insurance proceeds from a policy or policies obtained by the Lessee or condemnation payments in respect of such Units suffering a Casualty Occurrence, the Owner shall pay forthwith such proceeds or condemnation payments to the Lessee up to an amount equal to the Casualty Value with respect to any Unit theretofore paid by the Lessee and any balance of such proceeds or condemnation payments shall remain the property of the Owner; provided, however, that no Event of Default shall have occurred and be continuing and the Lessee shall have made payment of the Casualty Value thereof, and accrued rentals in respect of such Units, to the Owner. All insurance proceeds received by the Owner in respect of any Unit not suffering a Casualty Occurrence shall be forthwith paid to the Lessee upon proof reasonably satisfactory to the Owner that any damage to such Unit in respect of which such proceeds were paid has been fully repaired, provided that no Event of Default shall have occurred and be continuing.

7.7. Economic Obsolescence. (1) The Lessee shall have the right, at its option and on at least 120 days' prior written notice to the Owner, to terminate ("Termination") this Lease as to all Units then subject hereto (subject to the survival of the obligations described in § 4.1 hereof) as of any succeeding rent payment date specified in such notice ("Termination Date"); provided, however, that (i) the Termination Date shall not be earlier than June 29, 1999, (ii) such notice shall be accompanied by a certificate of a responsible officer of the Lessee stating in good faith that the Units are economically obsolete or surplus to the needs of the Lessee, (iii) no Event of Default or other event which after the lapse of time or

notice or both would become an Event of Default shall have occurred and be continuing, (iv) on the Termination Date such Units shall be in the same condition as if being redelivered pursuant to § 14.1 hereof and (v) on the Termination Date the Owner shall have paid to the Vendor a sum sufficient to prepay the CSA Indebtedness in accordance with Section 7.2 of the CSA.

(2) If the Lessee shall exercise its option to terminate under § 7.7(1), the Owner may, by written notice to the Lessee given within 60 days after the termination notice is given to the Owner, elect to retain the Units then subject to this Lease for its own account or for resale, in which case on the Termination Date (a) the Lessee shall pay to the Owner an amount equal to the rental payment due on the Termination Date and any other amounts due and payable hereunder on or before the Termination Date, and (b) the Owner shall pay to the Vendor a sum sufficient to prepay the CSA Indebtedness in accordance with Section 7.2 of the CSA; provided, however, that the Owner may not make such election unless it can demonstrate, to the reasonable satisfaction of the Lessee and the Vendor within said 60-day notice period, that it has made firm arrangements with a creditworthy entity to cause the CSA Indebtedness to be prepaid in accordance with Section 7.2 of the CSA on the Termination Date.

(3) If the Owner shall not make the election described in § 7.7(2), the Lessee shall use its best efforts to obtain bids for the purchase of all Units then subject to this Lease. The Owner may, but shall not be obligated to, solicit bids for the purchase of all Units then subject to this Lease. The Lessee shall certify to the Owner the amount of each such bid and the name and address of the party submitting such bid (which shall not be a person affiliated with the Lessee or any party from whom the Lessee or any such affiliate intends thereafter to lease such Units). The Owner shall certify the same information to the Lessee with respect to any bids received by the Owner. If any bid is received during the first 90 days after the receipt of the Lessee's notice, the highest bid received by the end of said 90-day period will be accepted and the Units will be sold as soon as possible thereafter for cash. If no bid is received during said 90-day period, the first bid received after said 90-day period which is acceptable to the Lessee will be accepted by the Owner, and the Units will be sold as soon as possible thereafter for cash. The net proceeds realized from such a sale shall be retained by the Owner and shall be invested in Investments as defined in

Section 2.5 of the Participation Agreement until the Termination Date. The Lessee shall be entitled to instruct the Owner as to the investment of the net sale proceeds. The Lessee shall be entitled to receive on the Termination Date the net income earned on the net sale proceeds to the extent such net income does not exceed the amount payable by the Lessee pursuant to the next sentence, and the Owner shall be entitled to any balance of such net income. On the Termination Date (a) the Lessee shall pay to the Owner (i) an amount equal to the rental payment due on the Termination Date and any other amounts due and payable hereunder on or before the Termination Date and (ii) the excess, if any, of the Termination Value for such Units computed as of such date over the net sales proceeds of such Units, after the deduction of all expenses incurred in connection with such sale, and (b) the Owner shall pay to the Vendor a sum sufficient to prepay the CSA Indebtedness in accordance with Section 7.2 of the CSA. Upon payment of the purchase price for the Units by the purchaser thereof, the Owner shall execute and deliver to the purchaser a bill of sale (on an "as-is, where-is" basis and without recourse, representation or warranty of any kind except as hereinafter stated) for the Units such as will transfer to the purchaser such title to the Units as the Owner derived from the Seller, free and clear of all liens, security interests and other encumbrances arising through the Owner, which such parties are required to pay or discharge pursuant to Section 15.2 of the Participation Agreement. The Owner will request the Vendor to comply with clauses (a) and (b) of Section 5.2 of the CSA.

(4) If no sale shall occur pursuant to § 7.7(4), this Lease shall continue in full force and effect without change as if the notice of termination had never been given.

(5) The Termination Value of each Unit as of the Termination Date shall be that percentage of the Purchase Price of such Unit as is set forth in Schedule B hereto opposite such date, but in no event shall such amount be less than the Termination Value (as defined in Section 7.4 of the CSA) as of such date.

§ 8. REPORTS

On or before April 30 in each year, commencing with April 30, 1987, the Lessee will furnish to the Owner, the Owner and the Vendor an accurate statement (a) setting forth as at the preceding December 31 the amount,

description and numbers of all Units then leased hereunder and covered by the CSA, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year (specifying the dates of such Casualty Occurrences) or to the knowledge of the Lessee are then undergoing repairs (other than running repairs) or are then withdrawn from use pending repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Owner or the Vendor may reasonably request, (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and the markings required by § 5 hereof and the CSA have been preserved or replaced and (c) providing such data with respect to the use of the Units and any other information that is reasonably required in order to determine the amount of any income, gain or loss attributable to this Lease. The Owner shall, at its sole cost and expense, have the right (but not the obligation) by its agents to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Owner may request as may be reasonably necessary to confirm to the Owner the existence of proper maintenance of the Units during the continuance of this Lease.

§ 9. DISCLAIMER OF WARRANTIES;
COMPLIANCE WITH LAWS AND RULES;
MAINTENANCE; INDEMNIFICATION

9.1. Disclaimer of Warranties. THE OWNER MAKES, HAS MADE OR SHALL BE DEEMED TO MAKE OR HAVE MADE NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN, COMPLIANCE WITH SPECIFICATIONS, OPERATION OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS OR ANY COMPONENT THEREOF DELIVERED TO THE LESSEE HEREUNDER, AND THE OWNER MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS OR ANY COMPONENT THEREOF FOR ANY PARTICULAR USE OR PURPOSE OR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT OR ANY COMPONENT THEREOF (EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE), it being agreed that all such risks, as between the Owner and the Lessee, are to be borne by the Lessee; but the Owner hereby appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Owner and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Owner may have

against the Seller or any other person, including, but not limited to, any claims and rights arising under the provisions of the CSA. The Owner shall not have any responsibility or liability to the Lessee or any other person or entity with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstance in connection therewith; (ii) the use, operation or performance of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Owner that the Units described therein are in all respects satisfactory to the Lessee.

9.2. Compliance with Laws and Rules. The Lessee agrees, for the benefit of the Owner and the Vendor, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units ("Applicable Laws"), to the extent that such laws and rules affect the title, operation or use of the Units and in the event that such laws or rules require any alteration, replacement, modification or addition of or to any part of any Unit, the Lessee will fully conform therewith at its own expense; provided, however, that the Lessee may, in good faith, contest the validity or application of any Applicable Law in any reasonable manner which does not, in the opinion of the Owner or the Vendor, adversely affect the property or rights of the Owner or the Vendor under this Lease or under the CSA.

9.3. Maintenance. The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit (including any parts installed on or replacements made to any Unit and considered an accession thereto as hereinbelow provided) which is subject to this Lease in good operating order and repair, ordinary wear and tear excepted. Except for alterations or changes required by law, the Lessee shall not, without the prior written approval of the Owner, effect

any permanent structural change in the design, construction or body of the Units or appurtenances thereto which will materially change the use for which the Equipment is intended.

9.4. Additions and Accessions. The Lessee and its affiliates, at their own cost and expense, may from time to time make such alterations, modifications and additions (including, without limitation, any special devices or assemblies at any time attached or affixed to any Unit, the cost of which is not included in the Purchase Price of such Unit and which are not required for the operation or use of such Unit by the Interstate Commerce Commission, the United States Department of Transportation or any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over such Unit) (hereinafter collectively called "Additions") to the Units as the Lessee may deem desirable in the proper conduct of its business so long as such Additions shall not be inconsistent with the continuing operation of the Units in accordance with their original conventional purpose and shall not diminish the value, utility or condition of the Units below the value, utility and condition thereof immediately prior to the making of such Additions, assuming the Units were then in the condition required to be maintained by the terms of this Lease.

Title to all Parts (as hereinbelow defined) incorporated in or installed as part of the Units shall without further act vest in the Owner and the Vendor as their respective interests may appear in the Unit itself in the following cases: (i) such Part is in replacement of or in substitution for, and not in addition to, any Part originally incorporated in or installed as part of a Unit at the time of the acceptance thereof hereunder or any Part in replacement of, or in substitution for, any such replaced or substituted Part, (ii) such Part is required to be incorporated in or installed as part of the Unit pursuant to the terms of § 9.2 or § 9.3 hereof, or (iii) notwithstanding the provisions of the first paragraph of this § 9.4, such Part cannot be readily removed from the Unit to which it relates without material damage thereto and without diminishing or impairing the value or utility which such Unit shall have had at such time had such alteration or addition not occurred. In all other cases, if no Event of Default under § 10 hereof (or other event which after lapse of time or notice or both would constitute an Event of Default) shall have occurred and be continuing, title to Parts incorporated in or installed as parts of the Units as a result of such

alterations or additions shall vest in the Lessee. The term Part for the purposes of this paragraph and § 14 hereof shall be defined to include any appliance, part, instrument, accessory, furnishing or other equipment of any nature which may from time to time be incorporated in or installed as part of any Unit.

9.5. Indemnification. Whether or not any of the transactions contemplated hereby are consummated, the Lessee assumes liability for, and shall indemnify, protect, save and keep harmless each Indemnified Person (as defined in § 6 hereof) from and against, any and all liabilities, obligations, damages, penalties, claims, actions, suits, costs and expenses, including legal fees and expenses, of whatsoever kind and nature (herein collectively called "Indemnified Matters") imposed on, incurred by or asserted against any Indemnified Person in any way relating to or arising out of (i) the manufacture, acquisition, construction, installation, purchase, delivery, ownership, lease, sublease, possession, rental, use, condition, operation, transportation, return, sale, replacement, storage or disposition of the Units or any part thereof (including, without limitation, Indemnified Matters in any way relating to or arising out of latent or other defects, whether or not discoverable by the Lessee or any other person, injury to persons or property, patent, trademark or invention rights, or strict liability in tort), or (ii) this Lease or any of the other Documents or any of the transactions contemplated hereby or thereby, or any other document or instrument hereafter executed and delivered pursuant to the terms hereof or thereof, or the enforcement of any of the terms of this Lease or any of the other Documents, or (iii) the enforcement of any agreement, restriction or legal requirement affecting the Units or any part thereof or the ownership, operation or use of the Units or any part thereof, or (iv) the execution and delivery of the CSA Indebtedness; provided, however, that the Lessee shall not be required to indemnify any Indemnified Person for (A) Indemnified Matters resulting from the gross negligence or willful misconduct of such Indemnified Person, or (B) Indemnified Matters in respect of the Units which arise from acts or events that occur after the termination of this Lease and the return of the Units to the Owner in accordance with § 14 hereof (unless such termination shall have occurred as a result of this Lease having been declared in default pursuant to § 10 hereof), or (C) Indemnified Matters resulting from any violation by such Indemnified Person of Section 5 of the Securities Act of 1933, as amended (or any comparable successor thereto), arising out of any transfer, after the

date of this Lease of any of the CSA Indebtedness or of the Owner's equity interest not consented to by the Lessee, or (D) Indemnified Matters resulting solely from the breach of any representation, warranty or covenant made by such Indemnified Person in any of its Documents (as defined in the Participation Agreement), or (E) Taxes described in § 6 hereof and the indemnities provided for in the Indemnity Agreement, or (F) transaction costs to the extent that the Lessee is not required to pay the same pursuant to Section 11.1 of the Participation Agreement.

The Lessee shall be obligated under this § 9.5 irrespective of whether the Indemnified Person shall also be indemnified with respect to such Indemnified Matters elsewhere under this Lease or under any other Document or by any other person, and the Indemnified Person may proceed directly against the Lessee under this § 9.5 without first resorting to any such other rights of indemnification. With respect to any payment or indemnity hereunder, such payment or indemnity shall include any amount necessary to hold any Indemnified Person receiving such payment or indemnity harmless on a net after-tax basis and taking into account any tax benefit realized by such Indemnified Person as a result of such payment from all taxes required to be paid by such Indemnified Person with respect to such payment or indemnity under the laws of any Federal, state or local government or taxing authority in the United States of America.

Upon the commencement of any proceeding or the receipt by an Indemnified Person of a written claim against an Indemnified Person involving one or more Indemnified Matters, such Indemnified Person shall promptly, upon receiving written notice thereof, give notice thereof to the Lessee. The Lessee shall be entitled (a) in any proceeding that involves solely a claim for one or more Indemnified Matters, to assume responsibility for and control thereof, (b) in any proceeding involving a claim for one or more Indemnified Matters and other claims related or unrelated to the transactions contemplated by the Documents, to assume responsibility for and control of such claim for Indemnified Matters to the extent that the same may be and is severed from such other claims (and such Indemnified Person shall use reasonable efforts to obtain such severance unless, in the opinion of counsel for such Indemnified Person, such severance and assumption of responsibility and control by the Lessee has a reasonable possibility of adversely affecting the resolution of such other claims), or (c) in any other case, to be consulted by such Indemnified Person with

respect to proceedings subject to the control of such Indemnified Person. Notwithstanding any of the foregoing to the contrary, the Lessee shall not be entitled to assume responsibility for and control of any such judicial proceedings if (1) the Indemnified Matters involved are less than \$25,000 in the aggregate, (2) a Default or an Event of Default shall have occurred and be continuing, (3) such proceedings will involve any substantial danger of the sale, forfeiture or loss of the Units or any part thereof, (4) such Indemnified Matters relate in any way to the business of any Indemnified Person other than the ownership and leasing of the Units, or (5) the Lessee shall not have furnished the Indemnified Person with an opinion of independent counsel reasonably satisfactory to such Indemnified Person to the effect that there exists a meritorious basis for contesting such Indemnified Matters. The Indemnified Person may participate at its own expense in any proceeding controlled by the Lessee pursuant to the preceding provisions.

The Indemnified Person shall supply the Lessee with such information requested by the Lessee as in the reasonable opinion of counsel to such Indemnified Person is necessary or advisable for the Lessee to control or participate in any proceeding to the extent permitted by this § 9.5. Unless the Lessee is excluded from control of a proceeding involving an Indemnified Person pursuant to the preceding paragraph or Default or an Event of Default has occurred and is continuing, such Indemnified Person shall not enter into a settlement or other compromise with respect to any Indemnified Matter without prior written consent of the Lessee, which consent shall not be unreasonably withheld or delayed, unless such Indemnified Person waives its right to be indemnified with respect to such Indemnified Matter.

After the payment in full to an Indemnified Person by the Lessee in respect of any Indemnified Matter pursuant to this § 9.5, if such Indemnified Person shall receive any payments in respect of such Indemnified Matter from any person other than the Lessee, such Indemnified Person shall promptly pay to the Lessee the amount of such payment, together with any interest (other than interest for the period, if any, after such Indemnified Matter was paid by such Indemnified Person until such Indemnified Matter was paid or reimbursed by the Lessee) received by such Indemnified Person on account of such payment, plus or minus, as the case may be, the net amount of all Federal, State, Local or Foreign tax benefits and detriments realized by such

Indemnified Person as a result of obtaining such repayment and its payment over to the Lessee.

Nothing in this § 9.5 shall be deemed to constitute a guarantee by the Lessee of the residual value of the Units or of the payment of the CSA Indebtedness.

9.6. Survival. The indemnities contained in this § 9 shall survive the expiration or termination of this Lease with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by, any Indemnified Person. None of the indemnities in this § 9 shall be deemed to create any rights of subrogation which do not already exist in any insurer or third party against the Lessee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

9.7. Payments for Indemnification. All payments hereunder shall be made directly to the Indemnified Person.

9.8. Reports. The Lessee agrees at its expense to prepare and deliver to the Owner within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Owner) any and all reports (other than income tax returns) to be filed by the Owner with any Federal, state or other regulatory authority by reason of the ownership by the Owner of the Units or the leasing thereof to the Lessee.

§ 10. DEFAULT

10.1. Events of Default; Remedies. If, during the continuance of this Lease, one or more of the following events (each such event being herein sometimes called an "Event of Default") shall occur:

(a) payment of any part of the rental provided in § 3 hereof or payment in respect of any Casualty Occurrence or Termination pursuant to § 7 hereof shall not be made by the Lessee when such payment is due and such default shall continue for 5 days;

(b) default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained

herein, in the Participation Agreement or the Consent, and such default shall continue for 30 days after written notice from the Owner or the Vendor to the Lessee specifying the default and demanding that the same be remedied;

(c) the Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or any interest herein, or of the right to possession of the Units, or any thereof;

(d) a petition for reorganization under Title 11 of the United States Code, as now constituted or as hereafter amended, shall be filed by or against the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease, the Consent and the Indemnity Agreement (as defined in the Participation Agreement) shall not have been and shall not continue to be duly assumed in writing within 60 days after such petition shall have been filed, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such trustee or trustees;

(e) any proceedings shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee under this Lease, the Participation Agreement, the Consent or the Indemnity Agreement, under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of the obligations of the Lessee hereunder) and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all such obligations of the Lessee shall not have been and shall not continue to be duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed in such proceedings in such manner that such

obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 60 days after such proceedings shall have been commenced;

(f) an event of default set forth in Article 16 of the CSA shall have occurred arising out of any default by the Lessee in performing any of its obligations hereunder or under its Documents (as defined in the Participation Agreement); or

(g) any of the Lessee's representations or warranties made herein, in the Participation Agreement or in the Consent or any statement or certificate at any time given in writing pursuant hereto or in connection herewith shall be breached or found to be false or misleading in any material respect as of the date when made;

then, in any such case, the Owner, at its option, may,

(A) proceed by appropriate court action or actions, either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(B) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable under this Lease to the extent that this Lease provides that the obligations of the Lessee survive the termination or expiration hereof; and thereupon the Owner may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess, sell, operate, lease to others and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever and without any duty to account to the Lessee for such action or inaction or for any proceeds arising therefrom; but the Owner shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a

fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee as damages for loss of a bargain and not as a penalty, whichever of the following amounts the Owner, in its sole discretion, shall specify: (x) a sum with respect to each Unit which represents the excess of (1) the present value, at the time of such termination, of the entire unpaid balance of all rental for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (2) the then present value of the rentals which the Owner reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on the basis of a 10% per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, together with any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Owner shall have sustained by reason of the breach of any covenant, representation or warranty of this Lease other than for the payment of the rental; or (y) an amount equal to the excess, if any, of the Casualty Value as of the rental payment date on or next preceding the date of termination over the amount the Owner reasonably estimates to be the sales value (after deduction of all estimated expenses of such sale) of such Unit at such time; provided, however, that in the event the Owner shall have sold any Unit, the Owner, in lieu of collecting any amounts payable to the Owner by the Lessee pursuant to the preceding clauses (x) and (y) of this part (B) with respect to such Unit, shall demand that the Lessee pay the Owner and the Lessee shall pay to the Owner on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the rental payment date on or next preceding the date of termination, over the net proceeds of such sale.

In addition, the Lessee shall be liable, except as otherwise provided above, for any and all unpaid amounts due hereunder before, during or after the exercise of any of the foregoing remedies and for all reasonable attorneys' fees and other costs and expenses incurred by reason of the occurrence of any Event of Default or the exercise of the remedies of the

Owner with respect thereto, including all costs and expenses incurred in connection with the return of any Unit.

10.2. Remedies Not Exclusive; Waiver. The remedies in this Lease provided in favor of the Owner shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is permitted by law. The Lessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder, and agrees to make rental payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

10.3. Failure To Exercise Rights is not Waiver. The failure of the Owner to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies, and a waiver of any such right on one occasion shall not constitute a waiver of such right as to any other occasion and shall not be effective unless in writing signed by the Owner.

10.4. Notice of Event of Default to Owner. The Lessee also agrees to furnish the Owner and the Vendor, promptly upon any responsible officer becoming aware of any condition which constitutes an Event of Default under this Lease or which, after notice or lapse of time or both, would constitute such an Event of Default, written notice specifying such condition and the nature and status thereof. For the purposes of this Section, a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Lessee in this Lease contained, any corporate official of the Lessee who in the normal performance of his operational responsibilities would have knowledge of such matter and the requirements of this Lease with respect thereto.

§ 11. RETURN OF UNITS UPON DEFAULT

11.1. Return of Units. If this Lease shall terminate pursuant to § 10 hereof, the Lessee shall forthwith deliver possession of the Units to the Owner and shall give prompt telegraphic and written notice to the Association of American Railroads and all railroads having

possession of any Unit so to return such Units. Each Unit returned to the Owner pursuant to this § 11 shall (i) be in the condition required by § 9.3 hereof and (ii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable. For the purpose of delivering possession of any Unit or Units to the Owner as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner place such Units upon such storage tracks as shall reasonably be designated by the Owner,

(b) cause such units to be stored on such tracks without charge for insurance, rent or storage until such Units have been sold, leased or otherwise disposed of by the Owner, and

(c) cause the Units to be moved to the nearest interchange point or points as shall be designated by the Owner.

The assembling, delivery, storage and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and, upon application to any court of equity having jurisdiction in the premises, Owner shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period, the Lessee will permit the Owner or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the same. In the event that the Units or any thereof are sold the Lessee shall pay to the Owner the per diem interchange for each such Unit which shall not have been assembled, delivered and stored, as hereinbefore provided, by the date of such sale for each day from the date of such sale to the date of delivery to the purchaser thereof. All amounts earned in respect of the Units after the date of termination of this Lease shall belong to the Owner and, if received by the Lessee, shall be promptly turned over to the Owner.

11.2. Owner Appointed Agent of Lessee. Without in any way limiting the obligation of the Lessee under the foregoing provisions of this § 11, the Lessee hereby irrevocably appoints the Owner as the agent and attorney of the Lessee, with full power and authority, at any time while the

Lessee is obligated to deliver possession of any Unit to the Owner, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be in possession of such Unit at the time.

§ 12. ASSIGNMENT; POSSESSION AND USE

12.1. Assignment. This Lease shall be assignable in whole by the Owner to any successor Owner subject to the satisfaction of all the provisions of Section 15.1 of the CSA. The Lessee hereby acknowledges the assignment of this Lease pursuant to the Lease Assignment.

12.2. Lessee's Right To Use the Units. (1) So long as no Event of Default exists hereunder, the Lessee shall be entitled to the possession and use of the Units within the United States of America in accordance with the terms of this Lease and the CSA, subject to the provisions of § 4.2 of this Lease.

(2) The Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them without the prior written consent of the Owner and the Vendor; and the Lessee shall not part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units without the prior written consent of the Owner and the Vendor except as provided in said paragraph (3) of this § 12.2.

(3) So long as no Event of Default exists hereunder, the Lessee shall be entitled to the possession and use of the Units by it or any affiliate upon lines of any railroad or other trackage over which railroad equipment is regularly operated and shall be entitled to permit the use of the Units by connecting and other carriers in the usual interchange of traffic or pursuant to run-through or trip-lease agreements and to sublease the Units to (i) any operating subsidiary of The Southern Company, (ii) any other company but not for a term (including any renewals) in excess of two years unless approved by the Lessor and the Vendor or (iii) any person which has contracted to purchase the Units pursuant to § 7.7(3) hereof until the date of such purchase pursuant to § 7.7(3) hereof, but only upon and subject to all the terms and conditions of this Lease and the CSA; provided, however, that the Lessee shall not assign, sublease or use or permit the assignment, sublease or use of any Unit except upon the terms and conditions of this Lease and the CSA, nor shall the Lessee assign or

sublease to or permit the sublease or use of the Units by any person in whose hands such Units would not qualify as "section 38 property" within the meaning of said Code. Any sublease permitted by this § 12.2 shall be expressly subordinate to the right and remedies of the Vendor under the CSA and the Owner under this Lease in respect of the Units covered by such sublease and no such sublease shall relieve the Lessee of any of its obligations hereunder which, notwithstanding any such sublease, shall remain in full force and effect.

12.3. Lessee's Duty To Discharge Encumbrances.

The Lessee, at its own expense, will as soon as possible cause to be duly discharged any lien, charge, security interest or other encumbrance (other than an encumbrance resulting from claims against the Owner or the Vendor not related to the ownership or leasing of, or the security interest of the Vendor in, the Units) which may be imposed during the term hereof, during the period the Lessee is obligated to pay rental hereunder or during the period any Unit is in the possession of the Lessee following default, on or with respect to any Unit (including any accession thereto) or the interest of the Owner, the Vendor or the Lessee therein; except that this covenant will not be breached by reason of liens, assessments or governmental charges or levies, in each case not due and delinquent, or undetermined or inchoate materialman's, mechanic's, workmen's, repairmen's or other like liens arising in the ordinary course of business in each case not delinquent, and furthermore, the Lessee shall be under no obligation to discharge any such lien, charge, security interest or encumbrance so long as it is contesting the same in good faith and by appropriate legal proceedings and the Owner or the Vendor advises the Lessee in writing that the failure to discharge the same does not adversely affect the title, property or rights of the Owner or the Vendor under the Documents.

12.4. Merger, Acquisition or Consolidation.

Nothing in this § 12 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any solvent corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have specifically assumed the obligations of the Lessee hereunder and under the Consent by an appropriate instrument in writing) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an

entirety or substantially as an entirety, provided that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition be in default under any provision of this Lease.

§ 13. PURCHASE AND RENEWAL OPTIONS

13.1. Purchase Options. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the Owner not less than 180 days prior to the end of the original term of this Lease (which notice shall be irrevocable), elect to purchase all, but not less than all, the Units then subject to this Lease at a purchase price equal to the Fair Market Value thereof. If the Lessee shall deliver such notice, the purchase specified therein shall be consummated on the last day of the original term of this Lease.

Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the Owner not less than 120 days prior to June 29 of any year, commencing in 1991 (which notice shall be irrevocable), elect to purchase all, but not less than all, the Units then subject to this Lease at a purchase price equal to the greater of the Fair Market Value thereof (less an amount equal to the CSA Indebtedness included therein) ("Adjusted Fair Market Value") or the Termination Value (less an amount equal to the CSA Indebtedness component thereof) ("Adjusted Termination Value") thereof. If the Lessee shall deliver such notice, the purchase specified therein shall be consummated on such June 29. On such June 29, the Lessee shall pay to the Owner (a) an amount equal to the greater of the Adjusted Fair Market Value or the Adjusted Termination Value of such Unit and (b) the rental payment due on such June 29; and the Lessee shall assume the CSA Indebtedness by documentation satisfactory in form and substance to the Agent, the Investors and their special counsel.

Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the Owner and the Agent not less than 120 days prior to June 29 of any year, commencing in 1996 (which notice shall be irrevocable), elect to purchase all, but not less than all, the Units then subject to this Lease at a purchase price equal to the greater of the Fair Market Value thereof or the Termination Value thereof. If the Lessee shall deliver such notice, the purchase specified therein shall be consummated on such June 29. On such June 29, the Lessee shall pay to the Owner

(a) an amount equal to the greater of the Fair Market Value or the Termination Value of such Units, (b) the rental payment due on such June 29 and (c) an amount equal to the prepayment premium required by Section 4.7 of the CSA; and the Owner shall prepay the CSA Indebtedness, such prepayment to be treated as a Termination pursuant to § 7.7 hereof and shall include the prepayment premium required by Section 4.7 of the CSA.

Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, in the event of a Change of Law (as defined in section 6(b) of the Indemnity Agreement) which would require the Lessee to pay an indemnity determined under section 6(b)(A)(y) of the Indemnity Agreement, the Lessee may by written notice delivered to the Owner and the Agent not more than 90 days after the expiration of the 99th Congress (which notice shall be irrevocable) elect to purchase all, but not less than all, the Units then subject to this Lease at a purchase price equal to the greater of the Fair Market Value thereof or the Unwind Value thereof as set forth in Schedule B hereto. If the Lessee shall deliver such notice, the purchase specified therein shall be consummated on the next Payment Date following the date of the notice. On such Payment Date, the Lessee shall pay to the Owner, (a) an amount equal to the greater of the Fair Market Value or the Unwind Value of such Units and (b) the rental payment due in respect of such Units on such Payment Date; and the Owner shall prepay the CSA Indebtedness with accrued interest but without premium. The aforementioned 90-day-period shall be extended (but not beyond March 29, 1988) in the event the Change of Law precipitates a change in the anticipated regulatory treatment for the Lessee.

Fair Market Value shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing buyer-user (other than (i) a lessee currently in possession and (ii) a used equipment dealer) and an informed and willing seller under no compulsion to sell and, in such determination, (x) (if the Lessee assumes the CSA Indebtedness) any bargain element in the interest rate on the CSA Indebtedness shall be taken into account, but (y) costs of removal from the location of current use shall not be a deduction from such value. If on or prior to 60 days before the proposed date of sale the Owner and the Lessee are unable to agree upon a determination of the Fair Market Value of the Units to be sold, such value shall be determined in accordance with the foregoing definition by an

Appraiser. The Appraiser shall be instructed to make such determination within a period of 20 days following appointment and shall promptly communicate such determination in writing to the Owner and the Lessee. The determination so made shall be conclusively binding upon both the Owner and the Lessee. The expenses and fees of the Appraiser shall be borne by the Lessee. The term Appraiser shall mean such independent appraiser as the Owner may select with the approval of the Lessee, or failing such approved selection, a panel of three independent appraisers, one of whom shall be selected by the Owner, the second by the Lessee and the third designated by the first two so selected. If there are three appraisers, the determination of each shall be averaged.

Upon payment of the purchase price of any Unit, the Owner shall upon request of the Lessee execute and deliver to the Lessee, or to the Lessee's assignee or nominee, a bill of sale (on an "as-is, where-is basis" without recourse, representation or warranty of any kind) for such Unit such as will transfer to the Lessee such title to such Unit as the Owner derived from the Seller, free and clear of all liens, security interests and other encumbrances arising through the Owner, which the Owner is required to pay or discharge pursuant to Article XIV of the Participation Agreement. The Owner will request the Vendor to comply with clauses (a) and (b) of Section 5.2 of the CSA.

13.2. Renewal Options. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may, by written notice delivered to the Owner (which notice shall be irrevocable) not less than six months nor more than one year prior to the end of the then current term of this Lease, elect to extend the original or an extended term of this Lease in respect of at least 100 (or any higher integral multiple of 100) Units then subject to this Lease for two four-year periods, eight one-year periods or any combination of whole years totaling not more than eight years. The rental payable during each extended term shall be payable semiannually on the anniversaries of the payment dates of the preceding term of this Lease in each year of such extended term and shall be in an amount equal to the "Fair Market Rental".

Fair Market Rental shall be determined for each extended term of this Lease on the basis of, and shall be equal in amount to the rental which would obtain in an arm's length transaction between an informed and willing lessee

(other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease, and, in such determination, cost of removal from the location of current use shall not be a deduction from such rental. If on or prior to 60 days before the commencement of the extended term, the Owner and Lessee are unable to agree upon the determination of the Fair Market Rental of the Units to be leased, such rental shall be determined in accordance with the foregoing definition by an appraiser in the manner described in the second paragraph of § 13.1 hereof. The Casualty Values applicable to any extended term shall be equal to the Fair Market Value of the Units at each rental payment date under the extended term. If on or prior to 60 days before the commencement of the extended term, the Owner and the Lessee are unable to agree upon a determination of such Casualty Values, such Casualty Values shall be determined by an appraiser in a manner described in the fifth paragraph of § 13.1 hereof.

§ 14. RETURN OF UNITS UPON EXPIRATION OF TERM

On or prior to the termination of the term of this Lease (or any renewal pursuant to § 13 hereof) the Lessee will, at its own cost and expense, at the request of the Owner, deliver possession of the Units to the Owner upon such storage tracks as the Owner may reasonably designate at least 30 days prior to such termination in the ICC Southern District at a location on the lines of the Seaboard System Railroad (but in no event at more than three locations), or, in absence of such designation, as the Lessee may select, and permit the Owner to store such Units on such tracks for a period not exceeding 45 days from the date at which at least 90% of the Units then subject to this Lease are first placed in storage; the assembly, delivery, storage and transporting of such Unit to be at the expense and risk of the Lessee. Arrival of a Unit at the designated point shall constitute "Return" for the purposes hereof. During any such storage period the Lessee will permit the Owner or any person designated by it, including the authorized representative or representatives of any prospective purchaser or lessee of such Unit, to inspect the same at the storage locations; provided, however, that the Lessee shall not be liable except in the case of negligence or intentional act of the Lessee or of its employees or agents and, except to the extent otherwise provided by law, for any injury to or the death of any prospective purchaser or lessee, the rights of inspection granted under this sentence. The assembly,

delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Owner shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to cause the assembly, delivery, storage and transporting of the Units. Each Unit returned to the Owner pursuant to this § 14 shall (i) be in the condition required by § 9.3 hereof, (ii) have attached or affixed thereto any Part title to which is in the Owner pursuant to § 9 hereof and have removed therefrom at the Lessee's expense any part title to which is in the Lessee or any other person pursuant to such § 9 and (iii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable, provided that the Lessee shall not be required to make any additions, modifications or improvements which would not be required of the Lessee if the Lessee continued to operate the Units. If any Unit suffers a Casualty Occurrence during any storage period provided for in this § 14, the Lessee shall pay to the Owner the Casualty Value of such Unit as determined in accordance with § 7 hereof. The Lessee shall pay rental equal to the daily equivalent of the then applicable rental for such Unit per day for any Unit not returned to the Owner immediately upon expiration of the termination of the initial or any extended term of this Lease. Nothing contemplated by this § 14, including payment by the Lessee of the above-specified amounts, shall be deemed to relieve the Lessee from its obligations to assemble, deliver and store the Units or affect the Owner's rights and remedies with respect to such obligation.

§ 15. RECORDING

The Lessee, at its own expense, will cause this Lease, the CSA, the Lease Assignment and any assignment hereof or thereof to be filed and recorded with the Interstate Commerce Commission in accordance with 49 U.S.C. § 11303. The Lessee will undertake the filing, registering, deposit and recording required of the Owner under the CSA and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Owner or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Owner's respective

interests in the Units, or for the purpose of carrying out the intention of this Lease, the CSA or the Lease Assignment.

The Lessee will promptly furnish to the Vendor and the Owner evidence of all such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Owner. This Lease and the CSA shall be filed and recorded with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

§ 16. OWNER'S RIGHT TO PERFORM;
INTEREST ON OVERDUE RENTALS

Should the Lessee fail to make any payment or to do any act as provided by this Lease, then the Owner shall have the right (but not the obligation), without notice to the Lessee of its intention to do so and without releasing the Lessee from any obligation hereunder to make or to do the same, to make advances to preserve the Units or the Owner's title thereto, and to pay, purchase, contest or compromise any insurance premium, encumbrance, charge, tax, lien or other sum which in the judgment of the Owner appears to affect the Units, and in exercising any such rights, the Owner may insure any liability and expend whatever amounts in its absolute discretion it may deem necessary therefor. All sums so incurred or expended by the Owner shall be due and payable by the Lessee within ten days of notice thereof. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay an amount equal to interest at a rate equal to the greater of 12-1/2% per annum or 1% plus the prime rate as announced by Chemical Bank at its headquarters as its prime rate from time to time, but in no event in excess of the highest rate as may be legally enforceable, on the overdue rentals and other obligations for the period of time during which they are overdue.

§ 17. NOTICES

Any notice required or permitted hereunder shall be deemed to have been received by the addressee on the date of actual receipt (if such date is a business day, otherwise on the next business day), if transmitted by mail, telex,

telecopy or similar transmission, or by hand, addressed as follows:

if to the Owner, Chemical Bank, 110 East 59th Street, New York, New York 10022, attention Manager, Specialized Leasing Group.

if to the Lessee, at 333 Piedmont Avenue, Atlanta, Georgia 30309, Attention of Treasurer, with a copy to Southern Company Services, Inc., 64 Perimeter Center East, Atlanta, Georgia 30346, Attention of Financial Vice President;

or addressed to any party at such other address as such party shall hereafter furnish to the other parties in writing. Copies of each such notice shall be given to the Vendor at Two Hopkins Plaza, P.O. Box 2258, Baltimore, Maryland 21203 attention of Corporate Trust Department or such other address designated by the Vendor. Any certificate, document or report required to be furnished by any party hereto to the other parties shall be delivered to the address set forth above for such party. Any notice to the Lessee by the Vendor regarding the Lessee's failure to perform any obligation hereunder shall also be furnished by the Lessee to the Owner.

§ 18. SEVERABILITY; EFFECT AND
MODIFICATION OF LEASE;
THIRD-PARTY BENEFICIARIES

18.1. Severability. Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

18.2. Effect of Modification of Lease. This Lease and the Indemnity Agreement exclusively and completely state the rights of the Owner and the Lessee with respect to the leasing of the Units and supersede all other agreements, oral or written, with respect thereto, except the Participation Agreement. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized

signatories for the Owner and the Lessee and consented to by the Assignee.

18.3. No Third-Party Beneficiaries. Nothing in this Lease shall be deemed to create any right in any person not a party hereto (other than the Owner, the Vendor and the permitted successors and assigns of a party) and this instrument shall not be construed in any respect to be a contract in whole or in part for the benefit of any third party except as aforesaid.

18.4. Acknowledgment of Interest. The Lessee acknowledges that its interest hereunder is that of a lessee only (but without derogating the provisions of Section 8 of the Indemnity Agreement).

§ 19. EXECUTION

This Lease may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Vendor pursuant to the Lease Assignment shall be deemed to be the original and all other counterparts shall be deemed duplicates thereof.

§ 20. LAW GOVERNING

The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State

of New York; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

IN WITNESS WHEREOF, the parties hereto have executed or caused this instrument to be executed as of the date first above written.

GEORGIA POWER COMPANY,

by

[Corporate Seal]

Treasurer

Attest:

Assistant Secretary

CHEMICAL BUSINESS CREDIT
CORP.,

by

[Corporate Seal]

Attorney-in-Fact

Attest:

Assistant Secretary

STATE OF GEORGIA,)
) ss.:
COUNTY OF FULTON,)

On this day of December, 1985, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is the Treasurer of GEORGIA POWER COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notarial Seal]

My Commission Expires

STATE OF NEW YORK,)
) ss.:
COUNTY OF NEW YORK,)

On this day of December, 1985, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Attorney-in-Fact for CHEMICAL BUSINESS CREDIT CORP., that one of the seals affixed to the foregoing instrument is the seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notarial Seal]

My Commission Expires

Units of Railroad Equipment

<u>Type</u>	<u>AAR Mechanical Designation</u>	<u>Quantity</u>	<u>Lessee's Identification Numbers (Both Inclusive)</u>
106 ton quick dump aluminun coal hopper cars	HTS	600	GALX 86001- 86600

Schedule B to the Lease

<u>Rental Payment Date</u>	<u>1985 Units</u>	<u>Unwind Values Percentage of Purchase Price</u>
	<u>Casualty and Termination* Values Percentage of Purchase Price**</u>	
12/29/86	109.6205795	108.5534195
6/29/87	110.6687575	109.5387468
12/29/87	111.2808254	110.0842623
6/29/88	111.5165765	110.2495415
12/29/88	111.3040487	109.9623912
6/29/89	110.6879101	109.2672352
12/29/89	109.5970615	108.0927155
6/29/90	108.1700628	106.5771178
12/29/90	106.6611353	104.9743733
6/29/91	105.0778260	103.2917216
12/29/91	103.4408354	
6/29/92	101.7445017	
12/29/92	99.9947900	
6/29/93	98.1851551	
12/29/93	96.3223520	
6/29/94	94.3990747	
12/29/94	92.4228856	
6/29/95	90.3857144	
12/29/95	88.2959440	
6/29/96	86.1447362	
12/29/96	83.9413082	
6/29/97	81.6760504	
12/29/97	79.3590294	
6/29/98	76.9795834	
12/29/98	74.5476851	
6/29/99	72.0516622	
12/29/99	69.5012500	
6/29/00	66.8841259	
12/29/00	64.2106173	
6/29/01	61.4677795	
12/29/01	58.6665834	
6/29/02	55.8353545	
12/29/02	53.0106244	
6/29/03	50.1700103	
12/29/03	47.3501856	
6/29/04	44.5269848	
12/29/04	41.7420428	
6/29/05	38.9680614	
12/29/05	36.1098771	
6/29/06	33.1223548	
12/29/06	30.0340684	
6/29/07	26.8081528	
12/29/07	23.4726118	
6/29/08	20.0000000	

* Termination is not permitted until June 29, 1991. Termination Values shown do not include any prepayment premium or accrued rental.

** As defined in the CSA.

Schedule B to the Lease

Rental Payment Date	1986 Units	
	Casualty and Termination* Values Percentage of Purchase Price**	Unwind Values Percentage of Purchase Price
12/29/86	110.7741363	109.7069763
6/29/87	112.5357749	111.4057642
12/29/87	113.8655594	112.6689963
6/29/88	114.8145248	113.5474898
12/29/88	115.3227683	113.9811108
6/29/89	115.4405214	114.0198465
12/29/89	115.0935186	113.5891726
6/29/90	114.3269654	112.7340204
12/29/90	113.0675767	111.3808147
6/29/91	111.5102494	109.7241450
12/29/91	109.8635143	
6/29/92	108.1222387	
12/29/92	106.3141832	
6/29/93	104.4420683	
12/29/93	102.5126037	
6/29/94	100.5185541	
12/29/94	98.4672093	
6/29/95	96.3505369	
12/29/95	94.1766547	
6/29/96	91.9367405	
12/29/96	89.6397564	
6/29/97	87.2760848	
12/29/97	84.8555488	
6/29/98	82.3677299	
12/29/98	79.8233301	
6/29/99	77.2108363	
12/29/99	74.5408937	
6/29/00	71.8009390	
12/29/00	69.0014241	
6/29/01	66.1291016	
12/29/01	63.1950609	
6/29/02	60.1853865	
12/29/02	57.1118502	
6/29/03	53.9598401	
12/29/03	50.7418557	
6/29/04	47.4426041	
12/29/04	44.0823865	
6/29/05	40.7043702	
12/29/05	37.3493861	
6/29/06	33.9899601	
12/29/06	30.6744147	
6/29/07	27.2511585	
12/29/07	23.7034518	
6/29/08	20.0000000	

* Termination is not permitted until June 29, 1991. Termination Values shown do not include any prepayment premium or accrued rental.

** As defined in the CSA.

ANNEX D
To
Conditional Sale Agreement
[CS&M Ref. 2046-166]

ASSIGNMENT OF LEASE AND AGREEMENT dated as of December 15, 1985, ("Assignment"), by and between CHEMICAL BUSINESS CREDIT CORP. ("Owner"), and MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY ("Agent") as Agent for certain institutional investors under a Participation Agreement dated as of the date hereof (together with their successors and assigns, "Investors").

The Owner is entering into a Conditional Sale Agreement dated as of the date hereof ("CSA") with AVONDALE INDUSTRIES, INC. (ORTNER FREIGHT CAR DIVISION) ("Builder"), providing for the sale to the Owner of such units of railroad equipment ("Units") described in Annex B thereto as are delivered to and accepted by the Owner thereunder.

The Owner and GEORGIA POWER COMPANY ("Lessee") have entered into a Lease of Railroad Equipment dated as of the date hereof ("Lease") providing for the leasing by the Owner to the Lessee of the Units.

NOW, THEREFORE, in consideration of the premises and of the payments to be made and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. The Owner hereby assigns, transfers and sets over unto the Agent, as collateral security for the payment and performance of the obligations of the Owner under the CSA, all the right, title and interest, powers, privileges, and other benefits of the Owner under the Lease, including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Owner from the Lessee whether as rent, casualty payment, termination payment, indemnity, liquidated damages or otherwise (such moneys, other than Excluded Payments as hereinafter defined, being hereinafter called the "Payments"), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to do any and all other things whatsoever which the Owner is or may become entitled to do under the Lease. The Owner does not assign to the Agent, and the Agent shall have no right or interest in and to, any Excluded Payments. As used herein, the term "Excluded

Payments" shall mean (i) payments by the Lessee to the Owner for its own account pursuant to §§ 6 and 9.5 of the Lease, (ii) any proceeds payable under liability insurance policies to or for the benefit of the Owner and (iii) payments made by the Lessee to the Owner pursuant to § 13.1 of the Lease. In furtherance of the foregoing assignment and subject to Section 11 hereof, the Owner hereby irrevocably authorizes and empowers the Agent in its own name, or in the name of its nominee, or in the name of the Owner or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which the Owner is or may become entitled to under the Lease, and to enforce compliance by the Lessee with all the terms and provisions thereof.

The Agent agrees to accept any Payments made by the Lessee for the account of the Owner pursuant to the Lease. To the extent received, the Agent will apply such Payments to satisfy the obligations of the Owner under the CSA, and to provide for the payments required to be made by the Owner pursuant to §§ 2.5 and 9.1 of the Participation Agreement, and, so long as no Event of Default shall have occurred and be continuing under the CSA, any balance shall be paid to the Owner on the same date such Payment is applied to satisfy such obligations of the Owner, by check mailed to the Owner on such date or, upon written request of the Owner, by bank wire to the Owner in the manner set forth in Schedule A to the Participation Agreement, and such balance shall be retained by the Owner. If the Agent shall not receive any rental payment under § 3 of the Lease when due, the Agent shall notify the Owner at the address set forth in the Lease; provided, however, that the failure of the Agent so to notify the Owner shall not affect the obligations of the Owner hereunder or under the CSA.

Any Excluded Payment received by the Agent shall be immediately paid to the Owner.

2. This Assignment is executed only as security and, therefore, the execution and delivery of this Assignment shall not subject the Agent to, or transfer, or pass, or in any way affect or modify the liability of the Owner under the Lease, it being understood and agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of the Owner to the Lessee shall be and remain enforceable by the Lessee, its successors and assigns, against, and only against, the Owner or persons other than the Agent.

3. The Owner will faithfully abide by, perform and discharge each and every obligation, covenant and

agreement which the Lease provides is to be performed by the Owner; without the written consent of the Agent, subject to Section 11 hereof, the Owner will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement amending, modifying or terminating the Lease, and the Owner agrees that any amendment, modification or termination thereof without such consent shall be void.

4. Subject to Section 11 hereof, the Owner does hereby constitute the Agent the true and lawful attorney of the Owner, irrevocably, with full power (in the name of the Owner, or otherwise), to ask, require, demand, receive and compound any and all Payments due and to become due under or arising out of the Lease to which the Owner is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which to the Agent may seem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all sums due from the Owner under the CSA, this Assignment and all rights herein assigned to the Agent shall terminate, and all estate, right, title and interest of the Agent in and to the Lease shall revert to the Owner.

6. The Owner will pay or discharge any and all liens, charges or security interests claimed by any party from, through or under the Owner not arising out of the ownership of the Equipment or the transactions contemplated by the Participation Agreement, this Agreement and the Lease (but including tax liens arising out of the receipt by the Owner of rentals and other payments under the Lease, the Participation Agreement and any other proceeds of the Equipment unless the Lessee has agreed under the Lease to pay or discharge the same) on or with respect to the Equipment, or any unit thereof, or the Owner's interest in the Lease and the payments to be made thereunder, but the Owner shall not be required to pay or discharge any such lien, charge or security interest so long as the validity thereof shall be contested in good faith and by appropriate legal or administrative proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the

Agent, adversely affect the security interest of the Agent in or to the Lease and the payments to be made thereunder.

7. The Owner will, from time to time, execute, acknowledge and deliver any and all further instruments required by law as reasonably requested by the Agent in order to confirm or further assure the interest of the Agent hereunder.

8. The Agent may assign all or any of the rights assigned to it hereby or arising under the Lease, including, without limitation, the right to receive any Payments due or to become due. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Agent hereunder.

9. This Assignment shall be governed by the laws of the State of New York, but the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

10. The Owner shall cause copies of all notices received in connection with the Lease, and all payments hereunder to be promptly delivered or made to the Agent at its address set forth in Article 21 of the CSA, or at such other address as the Agent shall designate.

11. The Agent hereby agrees with the Owner that the Agent will not, so long as no Event of Default under the Lease, or event of default under the CSA, has occurred and is continuing, exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits which are assigned and transferred by the Owner to the Agent by this Assignment, except the right to receive and apply the Payments as provided in Paragraph 1 hereof, and that, subject to the terms of the Lease and the CSA, the Owner may, so long as no event of default under the CSA or Event of Default under the Lease has occurred and is continuing, exercise or enforce, or seek to exercise or enforce or avail itself of, such rights, powers, privileges, authorizations or benefits.

Unless and until an Event of Default under the Lease, or an event of default under the CSA, has occurred and is continuing, the Owner shall have the right, without the concurrence of the Agent, to adjust the rentals, Casualty Values and Termination Values pursuant to § 3 of

the Lease and to exercise the rights of the Lessor under §§ 7.7, 13 and 14 of the Lease; at all times the Owner may, without the concurrence of the Agent, receive all notices, certificates, opinions of counsel and other documents and information to be furnished to the Owner under the Lease; at all times the Owner shall have the right to proceed by appropriate court action either at law or in equity to enforce the performance by the Lessee of its obligations with respect to Excluded Payments or to recover damages for the breach thereof as provided in § 10(A) of the Lease but may not declare an Event of Default under or terminate the Lease. The Agent may not at any time, without the concurrence of the Owner, amend, modify or supplement or give or accept any waiver or consent with respect to, the Lease so as to increase the liabilities or diminish the immunities of the Owner or reduce the amount or extend the time of payment of any Excluded Payment then due and payable or change any of the circumstances under which Excluded Payments are payable.

12. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument, but the counterpart delivered to the Agent shall be deemed to be the original counterpart. Although for convenience this Assignment is dated as of the date first above written, the actual dates of execution hereof by the parties hereto are the dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by officers thereunto duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

CHEMICAL BUSINESS CREDIT
CORP.,

by

Attorney-in-Fact

[Corporate Seal]

Attest:

Assistant Secretary

MERCANTILE-SAFE DEPOSIT
AND TRUST COMPANY, as Agent,

by

[Corporate Seal]

Vice President

Attest:

Corporate Trust Officer

STATE OF NEW YORK,)
) ss.:
COUNTY OF NEW YORK,)

On this day of December 1985, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Attorney-in-Fact for CHEMICAL BUSINESS CREDIT CORP., that one of the seals affixed to the foregoing instrument is the seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Notarial Seal]

Notary Public

My Commission expires

STATE OF MARYLAND,)
) ss.:
CITY OF BALTIMORE,)

On this day of December 1985, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the seal of said bank and that said instrument was signed and sealed on behalf of said bank by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said bank.

[Notarial Seal]

Notary Public

My Commission expires

CONSENT AND AGREEMENT

The undersigned, GEORGIA POWER COMPANY ("Lessee"), the Lessee named in the Lease of Railroad Equipment ("Lease") referred to in the foregoing Assignment of Lease and Agreement ("Lease Assignment"), hereby (a) acknowledges receipt of a copy of the Lease Assignment and (b) consents to all the terms and conditions of the Lease Assignment and agrees that:

(1) it will pay or cause to be paid all Payments (as defined in the Lease Assignment) provided for in the Lease due and to become due under the Lease or otherwise in respect of the Units leased thereunder, directly to Mercantile-Safe Deposit and Trust Company, as Agent ("Agent"), the assignee named in the Lease Assignment, by wire transfer of Federal funds by 11:00 a.m. Baltimore time to Mercantile-Safe Deposit and Trust Company, Baltimore, Maryland, for credit to its Corporate Trust Account No. 620081-8 with advice that the funds are "RE: Georgia Power 12/15/85" (or at such other address as may be furnished in writing to the Lessee by the Agent);

(2) the Agent shall be entitled to the benefits of, and to receive and enforce performance of, all the covenants to be performed by the Lessee under the Lease as though the Agent were named therein as the lessor;

(3) the Agent shall not, by virtue of the Lease Assignment or this Consent and Agreement, be or become subject to any liability or obligation under the Lease or otherwise; and

(4) the Lease shall not, without the prior written consent of the Agent, be terminated (except in accordance with its terms) or modified, nor shall any action be taken or omitted by the Lessee the taking or omission of which might result in an alteration or impairment of the Lease or the Lease Assignment or this Consent and Agreement or of any of the rights created by any thereof.

This Consent and Agreement, when accepted by the Agent by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the State of

Georgia and, for all purposes, shall be construed in accordance with the laws of said state.

GEORGIA POWER COMPANY,

by

[Corporate Seal]

Treasurer

Attest:

Assistant Secretary

The foregoing Consent and Agreement is hereby accepted, as of December 15, 1985.

MERCANTILE-SAFE DEPOSIT AND
TRUST COMPANY, as Agent,

by

Vice President